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HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA



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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 8, 2007

9:29 A.M.

Reported by:

Evelyn J. Mizak  
Shorthand Reporter





APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

JAMES R. DAVIS, Commissioner  
Board of Parole Hearings

RICHARD WORD, Police Chief  
Vacaville Police Department  
California Police Chiefs Association

JOHN LOVELL  
California Narcotic Officers Association  
California Peace Officers Association

TODD D. RIEBE  
California District Attorneys Association  
Amador County District Attorney

DAVID DAHL  
Los Angeles County District Attorney

DONALD MILLER  
Inmate Attorney





1 KATE KILLEEN, Deputy Executive Director  
California District Attorneys Association

2 JILL KLINGE, Deputy District Attorney  
3 Alameda County District Attorney

4 SARA DANVILLE, Chief Deputy  
5 Riverside County District Attorney

6 LINDA DUNN  
Riverside District Attorney  
7 Crime Victims United

8 PATRICK SEQUEIRA  
9 Los Angeles County District Attorney

10 CHRISTINE WARD  
Doris Tate Crime Victims Bureau

11 DEBRA TATE  
12 Victim Rights Advocate

13 JIM LARK  
14 Former Correctional Officer  
Citizens Law and Order

15 LAURA MASLOV  
16 Private Citizen

17 DAVID WARREN, Prison Chaplain  
18 Taxpayers for Improving Public Safety





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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN PERATA: We will start as a subcommittee. People are downstairs voting, as I understand it.

I apologize. I was in the wrong room. That should give you a lot of encouragement.

We have one appointee here from the Governor's Office today, and that's James Davis, Chair of the Parole Board.

Mr. Davis, please come forward. Good morning.

MR. DAVIS: Good morning, sir.

CHAIRMAN PERATA: You may open, sir.

MR. DAVIS: Thank you.

Good morning, everyone.

Mr. Chairman, Senators, members of your staff, I thank you for the opportunity to appear before you today.

As you know, I've invested the majority of my adult protecting life and property, and protecting public safety. I'm very proud of a record strong that includes a strong and innovative stance against crime, as well as an understanding of the importance of prevention and redemption.

I have a record of success achieved through the ability to work with people of diverse backgrounds, to identify common ground and achieve common goals. By translating those goals into action, and working in cooperation with others, I'm proud of a record that includes being one of the first communities in the United State to embrace community policing, working with our Superintendent of Schools, teaching

1 professionals and community leaders at the Cajon Valley Un  
2 School District on ways to eliminate the achievement gap.

3 I co-founded the El Cajon Youth Development  
4 Advisory Council, now known as Stoney's Kids after our  
5 co-founder and mentor, a foundation that has received nat 1  
6 recognition for its work in supporting families and child

7 I also was successful in leading an effort to  
8 change the direction of another foundation to focus on early  
9 education and intervention for at-risk youth.

10 I've helped in leadership positions on other  
11 boards and foundations whose focus was supporting  
12 underrepresented persons in our region, and helped to lead the  
13 successful effort for better funding for schools -- for high  
14 schools in our district, and worked with prosecutors, community  
15 leaders, judges to identify and implement alternatives to  
16 prosecution for chronic inebriates, and my department was  
17 recognized for its commitment to Drug Court.

18 I'm honored to have been appointed by the  
19 Governor to now serve all the people of California in what I  
20 think is possibly one of the most difficult positions in  
21 government, that being on the Board of Parole Hearings, and have  
22 the honor to work with some of the most dedicated men and women  
23 in our justice system.

24 I also want to take a moment to thank all the  
25 people who have come to speak here today. I'm sure there'll be  
26 both pro and con. I want to let you know that I appreciate both  
27 sides of that and understand the importance of honest and open  
28 communication.



1 With that, I'm open to any questions you may  
2 have.

3 CHAIRMAN PERATA: Thank you.

4 We had some time, as I guess most Members did, to  
5 talk with you in our offices.

6 One of the points that I wanted to emphasize is  
7 that as the Chair of the Parole Board, you really become the  
8 focal point of the system. And as I mentioned, this Committee  
9 has taken a particular interest in the way the Parole Board  
10 operates, and its strengths, its weaknesses.

11 So, I'm going to ask you to talk about a number  
12 of things that are procedural and institutional, if you would,  
13 beginning with what are your duties as the Chair itself?

14 MR. DAVIS: As you know, Senator, since the  
15 reorganization the duties of the Chair have changed  
16 dramatically. All the day-to-day operational sorts of things  
17 are now vested in the Executive Officer.

18 As the Chair, I oversee the en banc hearings. I  
19 do a lot with training of other commissioners, meet with CDCR  
20 staff and others regarding issues at the institutions, and meet  
21 with other interested parties on informing and talking about the  
22 roles and duties of the board.

23 CHAIRMAN PERATA: Just for the record, who hires  
24 in Ex.O?

25 MR. DAVIS: The Executive Officer is an appointed  
26 position, sir.

27 CHAIRMAN PERATA: By the Governor.

28 MR. DAVIS: Yes, sir.

1 CHAIRMAN PERATA: You had mentioned that there  
2 was an outside consultant group doing a study for the board.  
3 Would you talk about the scope of that study and who's doing it?

4 MR. DAVIS: Absolutely.

5 We're very excited about that process, actually.  
6 It's being done by CPS Human Resources. Mr. Mallory is the  
7 principal on that group, and it will be a comprehensive workload  
8 study of not only the commissioners, but also the deputy  
9 commissioners.

10 I've had the opportunity to review some of the  
11 information and the tools that are being used to do that study.  
12 And I'm very hopeful that in the end, what it will give us will  
13 be a very strong sense of exactly how long our hearings take,  
14 what portions of the hearing take what amount of time, an idea  
15 of preparation, and give us a tool with which we can come back  
16 and speak with some authority on any need for additional  
17 personnel or changes in the way we're currently structured.

18 CHAIRMAN PERATA: Does this study include the  
19 psych evaluations, the problems we've been having with psych  
20 evaluations?

21 MR. DAVIS: No, sir, only to the extent that it  
22 would talk about the time and, perhaps, the postponements  
23 involved with psych evaluations.

24 The psychological evaluations, as you know, we  
25 are very pleased with the fact that as of February 1st, we have  
26 inaugurated the new psychological evaluation process. And so,  
27 that will be a separate area.

28 CHAIRMAN PERATA: How did you select and who

1 selected CPS?

2 MR. DAVIS: That was done -- I'm not sure if it  
3 was a bid process, or how that worked, but that was done through  
4 the Executive Officer.

5 CHAIRMAN PERATA: Would you check that out and  
6 let us know?

7 MR. DAVIS: Certainly, sure.

8 CHAIRMAN PERATA: I'd like to see if there was an  
9 RFP. I'd like to see that.

10 When is this due to arrive back in your  
11 possession, this study?

12 MR. DAVIS: I know that we are -- they are in the  
13 process now of beginning to actually shadow certain  
14 commissioners in an attempt to get a real-time baseline of how  
15 long it takes to prepare and do some other things.

16 I've had people from CPS at hearings in order to  
17 log the information and time that it takes, and then there'll be  
18 a process of some self-reporting. So, I think we're probably  
19 looking at about three or four months.

20 CHAIRMAN PERATA: What role did the board play in  
21 this? If it was done by the Executive Officer, did you have any  
22 role at all?

23 MR. DAVIS: Representatives from CPS came to some  
24 of our meetings, talked about what they were going to do, asked  
25 for input about how that was going to occur, what kinds of  
26 things board members thought would be important to add into the  
27 information.

28 CHAIRMAN PERATA: Basically this was driven by



1 the administration not by the board itself?

2 MR. DAVIS: Well, I don't want to over or under  
3 emphasize the input that commissioners will have, because again,  
4 they're meeting -- people from CPS have met with individual  
5 board members. We're in the process -- and gathered information  
6 from them.

7 So, the tools, the instruments that are going to  
8 be used, have been made in cooperation with board members.

9 The bringing on of the consultant was something  
10 that was done at the executive level.

11 CHAIRMAN PERATA: I would, just for fun, and you  
12 were a chief, I would ask to see the copy of the draft before it  
13 turns into the final, and then you can compare the two.

14 MR. DAVIS: Draft of the --

15 CHAIRMAN PERATA: They should have the draft  
16 document, and then there'll be a final document.

17 The draft document, take a look at it, and then  
18 compare it to the final. You'll find it fun reading. Then  
19 you'll also know how much input you've really had.

20 As I mentioned, we would be delighted to see a  
21 copy of the work product when it's made available. We can also  
22 make the Executive Officer aware of that, even though he doesn't  
23 work for us.

24 We've spent sometime talking about the postponed  
25 hearings, and we mentioned 32 percent of them, and that's a lot  
26 of postponements. You and I talked about this.

27 I want to get a little bit clear, or at least I  
28 want to understand it better than I do right now. Most of our

1 prisons are in places like Blythe, and Avenal, and other cities  
2 that we've never heard of. So, when you have a hearing there,  
3 people need to be convened, the DA, and the inmate's lawyer, and  
4 the victims or next of kin.

5 So in most instances when the postponement  
6 occurs, are people notified? Or do they show up and then it's  
7 postponed? Do you know?

8 MR. DAVIS: It depends on the circumstances.  
9 Sometimes we will know ahead of time that a hearing is going to  
10 be postponed for a variety of different reasons, a change in  
11 attorneys, a variety of different things.

12 So, to the extent possible, we always try to  
13 notify people. But sometimes postponements are not known until  
14 the last moment. And again, that can be for a variety of  
15 reasons as well.

16 Not too long ago I showed up at R.J. Donovan, and  
17 was -- they tried to turn me away at the gate because there was  
18 a tuberculosis outbreak, and said no one's allowed on the  
19 grounds. Being a former chief, I said, "No, let me talk to  
20 somebody else," and we ended up doing the majority of our  
21 hearings that particular day.

22 But there are times when, because of outbreaks or  
23 other things, you just simply cannot. And so in those kinds of  
24 cases, we do immediately get on the telephone to all the  
25 affected people, including the attorneys, and victim's next of  
26 kin, and others, and try and give everybody as much notice as we  
27 possibly can.

28 CHAIRMAN PERATA: Well, I think just from a

1 managerial point of view, if you have one of three being  
2 postponed, it would look to me like there's something wrong, and  
3 it's a system problem. As I mean, if it's an act of God,  
4 there's nothing you can do about it.

5 And I know a number of board commissioners have  
6 talked about the psych evaluations, and the difficulty in  
7 getting those, and that was the cause, it seemed to be, in  
8 almost the majority of postponements.

9 But I think as I mentioned before, it's important  
10 to make these things. The hearings themselves carry with them  
11 the importance of where they fit into the system.

12 So, I would just encourage you to put an emphasis  
13 on that as the Chair, and try to drive that number down.

14 MR. DAVIS: Absolutely, sir. I couldn't agree  
15 with you more.

16 There are very few things more frustrating or  
17 more difficult to explain to people that have traveled, as you  
18 say, some distance to be at a hearing, only to be told that  
19 they're going to have to come back in three or six months. Or  
20 the men and women who are inmates, directly involved, who have  
21 anticipated this day for sometime, and are now faced with a  
22 postponement.

23 I'm pleased to tell you that there are things  
24 that will help eliminate that or lessen that currently. One is  
25 that active negotiation should be well on its way to being  
26 completed now, which will in -- actually as instructed by the  
27 Rutherford court order, that will push back the time of the due  
28 dates of the board reports from the current 30 days to 90 days.



1 And so, that's going to help us. We' going to know well in  
2 advance, or more in advance, of any potential openings in the  
3 schedule that we'll be able to perhaps put people into the  
4 process sooner, so we'll be able to lessen the number of  
5 postponements that way.

6 Our new psychological process should help in that  
7 as well with the tools that are being used to the static factors  
8 and the dynamic factors. Once that program get rolling, and as  
9 I say, it started February 1st, it's a phase-in process, so it's  
10 going to take sometime, but there'll also be some triage that'll  
11 be conducted between now and when it's fully implemented to try  
12 and highlight some of the areas that we're having most  
13 difficulty with right now.

14 And then finally, by November of 2007, we'll have  
15 our LTS, our Lifer Tracking System, in place. And that will be  
16 an automated system again to help us do a better job of  
17 identifying where the problems are so that we can -- so that we  
18 can fill those gaps and lessen this backlog.

19 CHAIRMAN PERATA: Most of what you handle is all  
20 paper now; isn't it? There's not much electronic material?

21 MR. DAVIS: Yes, the vast majority is paper, yes.

22 CHAIRMAN PERATA: Are we in the process of doing  
23 21st Century stuff, or do you know?

24 MR. DAVIS: In fact, that is part of LTS, is to  
25 do just exactly that, to bring a lot of it into -- into a data  
26 base such that commissioners, or deputy commissioners, or people  
27 involved in the system will be able to carry with them into  
28 institutions ultimately laptops that will give them some of the

1 current status, up-to-date information. And we hope to carry  
2 that through, even to the way that we are able to write our  
3 decisions and use our scripts, and so forth.

4 CHAIRMAN PERATA: LTS.

5 MR. DAVIS: Yes, the Lifer System, Lifer Tracking  
6 System.

7 CHAIRMAN PERATA: Tell me a little bit about  
8 that. I'm unfamiliar.

9 MR. DAVIS: Well again, it's a -- it is a process  
10 that -- and I take no credit for this, by the way. This is all  
11 things that are being done by, again, those hard-working people  
12 that I mentioned earlier, and exceptional staff, and our  
13 Executive Officer, who've been working on these projects for  
14 quite sometime.

15 It is taking a lot of the information that  
16 currently exists only in C Files and in other paper sorts of  
17 venues, and putting that into an electronic data base, a secure  
18 electronic data base, that will allow access on a need-to-know,  
19 right-to-know basis, and allow us to track things like the  
20 psychological reports, like the board reports, any other  
21 components of our hearings that would be necessary to know if  
22 there's a problem at one stage or another that needs to be  
23 accounted for.

24 CHAIRMAN PERATA: Do you know when that's due to  
25 be completed?

26 MR. DAVIS: November, 2007 is the absolute drop  
27 dead date.

28 CHAIRMAN PERATA: Let's talk a little bit about

1 psych evaluations. This has been, the time that I've listened  
2 and discussed with nominees, obviously it's a pivotal issue.  
3 I'm sure it's very determinative.

4 But what is it? What is a psych evaluation? How  
5 is it used in the process of hearing and evaluation?

6 MR. DAVIS: Psychological evaluation is one  
7 component of many components in a hearing.

8 Effectively, it consists -- one of the things  
9 that we look forward to in our new psychological evaluation is  
10 that it will be a standardized evaluation across the system.

11 Currently, no standardized evaluation exists from  
12 one institution to another. They may vary in format or tools  
13 that are used to implement them.

14 The new one will be, as I say, standardized.

15 But ideally, it should contain what are called  
16 static factors. That is, those things that may never change:  
17 the history; history of the person's background; the crime  
18 itself. And then more dynamic factors, those things that change  
19 over time: their sense of the crime; what they have learned,  
20 perhaps, through -- through programming and how that has changed  
21 their threat to public safety; their level of dangerousness, if  
22 you will.

23 CHAIRMAN PERATA: You mentioned 17 positions,  
24 psych positions, that you mentioned yesterday.

25 MR. DAVIS: Yes, we are -- our table of  
26 organization calls for 2 supervising doctors as well as 17  
27 doctors will who will be deployed into -- around the state on a  
28 case-by-case basis. They won't be assigned to any particular



1 institution. They'll be working where ever the need be.

2 As of at least a week ago, 14 of the 17 have been  
3 hired and are currently working.

4 CHAIRMAN PERATA: So, they work for the  
5 Department of Corrections?

6 MR. DAVIS: No, sir. These doctors will work for  
7 the Board of Parole Hearings.

8 CHAIRMAN PERATA: On any of this stuff, if you  
9 want to jump in, jump in.

10 SENATOR PADILLA: Go back to the tracking  
11 system. I, too, don't know too much about it, so start with  
12 that November, 2007. You said it was a drop dead date?

13 MR. DAVIS: That's the date that the court has  
14 ordered for the system to be complete, yes.

15 SENATOR PADILLA: Because there's drop dead  
16 dates, and there's drop dead dates unfortunately.

17 MR. DAVIS: No, I think this one is -- this one  
18 is pretty firm. And in talking with the people who are involved  
19 in the process, they anticipate that it will be -- it should be  
20 ready before that.

21 SENATOR PADILLA: Usually in a project of this  
22 importance and this magnitude, there's milestones or markers  
23 along the way to tell you whether you're on track or not. When  
24 was the last milestone or marker, and are we on track?

25 MR. DAVIS: I know I have looked at some of that  
26 data. I don't remember the last milestone. I just spoke  
27 yesterday with a staff member who is in the process of doing  
28 this, and she tells me that she believes that they are on track

1 and should be ready well before the November, 2007 date.

2 SENATOR PADILLA: And probably the more important  
3 question is, for new Members of the Legislature, what's the  
4 purpose of this tracking system?

5 MR. DAVIS: One of the most difficult things, and  
6 one of the things I was very surprised at going into this job,  
7 was the amount of paper that's involved in this process. I  
8 don't know if you've had the opportunity to see some of these  
9 files, but I marvel at CDCR's ability to keep track of this.  
10 You're talking about things that are a foot to two, three feet  
11 high, you know, two or three files.

12 And as the Senator mentioned, the idea of coming  
13 into some sort of a 21st Century sort of an operation, where --  
14 not the files themselves; that's a whole different project, of  
15 course -- but at least the idea of being able to keep track of  
16 those things that the board is responsible for in terms of all  
17 the elements of our hearing will be -- will be part of a data  
18 base that we can access from -- from a variety of different  
19 locations, again, right-to-know, need-to-know sort of a basis,  
20 and be able to know for a certainty that the required elements  
21 are on track and ready to go required. That is, required  
22 elements of the hearing.

23 SENATOR PADILLA: Will it be just a simple input  
24 process, or is it interactive where the system itself, software  
25 itself, will alert you when certain documents may be missing?

26 MR. DAVIS: I believe there are triggers along  
27 the way that say, "Wait a minute. You're missing this document.  
28 You can't go further."

1                   SENATOR PADILLA: The Chair talked quite a bit  
2 about the issues on postponements.

3                   MR. DAVIS: Yes.

4                   SENATOR PADILLA: I heard your responses.  
5 Separate and apart from postponements, but in part because of  
6 the postponements, there's still a significant backlog of cases  
7 for the hearings. It's something that we talked about with your  
8 colleagues who were before us just a couple weeks ago.

9                   Your comments as the Chair on what we're doing to  
10 tackle the backlog?

11                  MR. DAVIS: I'm pleased to tell you that as of  
12 our last report, the backlog is now down to 927. So, we're in  
13 three digits now for the first time in quite sometime.

14                  One of the primary roles of the Chair currently  
15 is that I am an active hearing officer. I am, aside from our en  
16 banc hearings, and a few days in Sacramento, I am out in the  
17 field doing hearings. So, that's our focus, is to bring that  
18 backlog down.

19                  And the things that I've spoken about so far, the  
20 pushing back of the due date for the board reports so when we  
21 know that when we go to a hearing it's ready to go, the  
22 implementation -- ultimate implementation of LTS and our new  
23 psychological program, all of those things, I look at that from  
24 a management standpoint and say that those things are going to  
25 be significant in helping us reduce that backlog even -- even  
26 more quickly.

27                  Other things that affect the backlog are, of  
28 course, staffing. Not only the staff internally at BPH, from



1 our legal staff to others that work on a variety of different  
2 projects, but of course commissioners. And because of the way  
3 that hearings have to be scheduled, that is, we're scheduled  
4 three or four, sometimes, months in advance. Any break in that  
5 scheduling causes a significant ripple throughout the process.  
6 So, anything that has to be cancelled, illnesses, anything that  
7 happens, all the human frailties that happen significantly  
8 effect our ability to hammer away at that backlog.

9 SENATOR PADILLA: Are those the more common  
10 reasons? What are more common reasons for the postponements?

11 MR. DAVIS: For postponements themselves, I would  
12 say currently the most common are late or nonexistent  
13 psychological reports.

14 SENATOR PADILLA: So that's different than what  
15 you just said now, the illnesses, the human variables, if you  
16 will.

17 MR. DAVIS: They're all things that contribute to  
18 it, but I think by far the -- well, two most -- most currently  
19 there are two things. One are the psychologicals. And two,  
20 we've had -- not having been familiar with the system before  
21 this, it seems to me that there are -- there have been several  
22 instances where there's been an outbreak of one thing or  
23 another, where we've had to cancel entire weeks of hearings.  
24 And so, when that happens, you can imagine, again, the ripple  
25 effect that that has on the system.

26 SENATOR PADILLA: What other policies or issues  
27 are you pursuing to help to further reduce the backlog?

28 MR. DAVIS: I think the initiatives that I have

1 already talked about, the three initiatives that I've talked  
2 about, and certainly training, continued ongoing training of our  
3 commissioners are the things that will effect the backlog most  
4 significantly.

5 SENATOR PADILLA: One of the issues that's going  
6 to continue to grow this year for the Legislature is,  
7 quote-unquote, "prison reform." Just the situation in our jails  
8 today, pending lawsuits, et cetera. Population management is  
9 something that we're all taking a crash course in.

10 As the year goes forward, what sort of impact  
11 will that have on what you do, and are there any policy  
12 initiatives or concerns that you all have, depending on how  
13 things may change, from that perspective?

14 MR. DAVIS: I think the area that -- certainly  
15 overcrowding effects the board, is most evident in terms of the  
16 programs and opportunities for education that are available to  
17 the inmates. And that's certainly something that the board  
18 looks at very carefully, is programming and education.

19 So, to that extent, we just always look for  
20 alternatives.

21 But there's nothing specific that I think is the  
22 board can have an effect on that, outside of encouraging  
23 alternatives for the men and women involved in the process, and  
24 to continue to encourage that those programs continue to be  
25 available.

26 SENATOR PADILLA: So, whether there's a change in  
27 the length of sentences, or a portion of sentences actually  
28 served by inmates, by choice or not by choice, given what

1 federal judges will want to tell us, that won't impact your work  
2 at all?

3 MR. DAVIS: Well, again to the extent that  
4 overcrowding affects the ability of the institutions to offer  
5 programs and education, self-help programs, vocational programs,  
6 that sort of thing, that certainly affects the men and women who  
7 are coming before the board and their ability to gain  
8 suitability, yes.

9 SENATOR PADILLA: Just out of curiosity, part of  
10 the package you submitted for consideration to the Committee  
11 includes your Form 700?

12 MR. DAVIS: Yes.

13 SENATOR PADILLA: You have two areas of outside  
14 income or employment, City Gate Associates and CPI?

15 MR. DAVIS: Yes. Those were prior to  
16 appointment. I no longer -- I no longer consult with either  
17 group.

18 SENATOR PADILLA: No other sources at this time?

19 MR. DAVIS: No, sir.

20 CHAIRMAN PERATA: Going back to the psych  
21 evaluations, there is no written policy about how old is too  
22 old?

23 MR. DAVIS: No. There's no written policy about  
24 how old is too old. Our current supervising psychologists tell  
25 us that it is their professional opinion, and their opinion  
26 based on discussion with their peers, that five years is  
27 probability the limit of time that one should be considered.  
28 But within that, then there are a number of variables that may



1 come into play in terms of the use of the psychological in a  
2 particular hearing, which could include things like significant  
3 programming in between the last psychological report and the  
4 current -- the current hearing. Perhaps if the last  
5 psychological report was used and there was a negative result,  
6 there are a number of aspects that may affect whether or not a  
7 psychological report would be considered too old. Or, in fact  
8 in some cases, defense counsel asked for a new psychological  
9 report.

10 CHAIRMAN PERATA: It would appear to me, not  
11 knowing much, that it would be helpful if there were some  
12 criteria for people who are new to the Parole Board. If you  
13 have someone who has been given a two-year deferral, or what do  
14 you call them, delay?

15 MR. DAVIS: A denial.

16 CHAIRMAN PERATA: Postponement? After two years,  
17 if I were sitting where you're sitting, I'd like to know whether  
18 or not that psych report ought to be refreshed, but I'd have to  
19 know what to look for.

20 Now, you just cited a number of things that  
21 seemed to me on the face of it valid considerations.

22 I would encourage you to think about having  
23 something, because this is an issue where some people, some of  
24 your colleagues who have been approved, have said that they  
25 thought three years should be the standard. Others have said  
26 five.

27 I'm the first one to admit that I don't think  
28 psychology is an exact science, but all the more need, I think,

1 to have some direction given on that. If we're going to use  
2 that as a tool of measurement, then I would encourage you to  
3 have it be a little bit tighter, and knowing what that is, it  
4 would seem to me, would eliminate some of the possible  
5 postponements, because people won't be as vague.

6 I think it's best for everybody to have some  
7 understanding on both sides of the table. I think, you know,  
8 the victims should understand, you know, whether what they're  
9 feeling is either being validated or questioned by the psych  
10 evaluation.

11 If it wasn't so pivotal, I know there are a lot  
12 of other factors, but I'm sure this plays a significant role in  
13 what you decide to do.

14 So, I'd encourage you to look at that, and maybe  
15 talk to your Ex.O. and ask him or her --

16 MR. DAVIS: Him.

17 CHAIRMAN PERATA: -- to look at that.

18 But that will always be a big issue, you and I  
19 talked about it. The job is a big one, and people have large  
20 geographies to cover. They have lots of cases to review.

21 We had last meeting someone explain just what a  
22 week looked like, and the time preparing for each case. And  
23 it's a substantial amount of work.

24 So, I think if there were some commonality of  
25 criteria in some of these areas, it would be useful, it seems to  
26 me.

27 Just for the record, I want you to go through  
28 probably, for the last time, the November, 2006 board hearing

1 where you had two cases of the inmates, and then you were asked  
2 to reconsider.

3 Just what happened? Just for the record go over  
4 that.

5 MR. DAVIS: Yes, sir.

6 Well, as you know, in our November en banc,  
7 included in our cases were two that, after receiving testimony  
8 in the open session, after we adjourned to closed session, we,  
9 as we always do, reviewed each case individually. These cases  
10 were no exception. They were briefed and discussed  
11 individually.

12 The discussion was open, and there were questions  
13 asked, and clarification given. And at some point during the  
14 discussion and clarification, as I do as the Chair, when it  
15 seemed as though the questions were waning, I simply asked if  
16 there were any further questions or any further clarifications  
17 needed. Seeing none, I asked for a motion, not asking for a  
18 specific motion one way or the other, but asked for a motion.

19 In this case, the motion came forward as a motion  
20 to deny, and there a second, and again further discussion. And  
21 after that further discussion and clarification was finished,  
22 there was an individual roll call vote taken. The vote was  
23 unanimous.

24 So, it was not -- in this particular case, as I  
25 have indicated prior, the motion should have been to send this  
26 case back to a recision hearing, because the time had lapsed.  
27 It was -- the motion was incorrect. It should have been --  
28 well, it could have been one of two things. It could have been



1 to support the original panel's recommendation for a grant, or  
2 it could have been for a recission hearing; one of the two.

3 The motion was not. It should have been for a  
4 recision hearing.

5 So, the intent of the board was -- was not --  
6 was never to agree with the original panel. But the technical  
7 difference in terms of how the case would proceed from there was  
8 the error that I did not detect.

9 I was the Chair. It was my responsibility to  
10 have detected that error and to have corrected it. I did not.  
11 Both cases proceeded roughly as I've described the first.

12 The error was noticed some hours later. However,  
13 unfortunately we weren't able to pull it off the web site  
14 immediately because no technical -- no IT staff was available to  
15 do that. So, it was not pulled off until, I think, the next  
16 morning.

17 But again, that was effectively it. The intent  
18 of the board, as I said, was never to agree with the original  
19 panel. But the motion should have been to send back to a  
20 recision hearing in both cases.

21 CHAIRMAN PERATA: Since you're the Chair, do you  
22 have opportunities to visit the prisons themselves?

23 MR. DAVIS: Well, I actually conduct hearings on  
24 a regular basis, so I'm in the prisons, yes.

25 CHAIRMAN PERATA: Since programs and education  
26 would be an integral part of your final decision, do you have  
27 opportunities to look at the programs?

28 MR. DAVIS: I've had the privilege to -- to

1 review or visit some of the libraries and to talk about the -- I  
2 haven't actually visited a program specifically, but have spent  
3 time talking with people who are responsible for the development  
4 and delivery of those programs, as well as the records personnel  
5 and the institutions personnel as well regarding the programs  
6 that they have.

7 CHAIRMAN PERATA: During the first year, I think  
8 on your written form you said you toured one library?

9 MR. DAVIS: At Kern, yes. Actually, they have  
10 three libraries there. I was surprised to learn that myself,  
11 but each yard has their own library.

12 I talked to some of the men that were responsible  
13 for helping to -- which I thought was an interesting thing as  
14 well, some of the men who were there were actually responsible  
15 for suggesting some of the reading material that they wanted to  
16 see in their new budget that they had.

17 CHAIRMAN PERATA: Dare I ask?

18 MR. DAVIS: Well, yes. You know, I'll tell you  
19 what interesting was that one of the things I wanted to look at  
20 specifically was the availability of some of the self-help  
21 books, because while some people have books sent in to them, not  
22 all the inmates have that kind of wherewithal to be able to have  
23 books sent to them. So, they depend on the library.

24 And so, yes, they were asking for self-help  
25 books. They wanted to do some independent reading.

26 CHAIRMAN PERATA: One of the things that the  
27 Governor's talked about, and I think all of us recognize this,  
28 that greater opportunities for rehab, at least in theory if not

1 in fact, lessens the opportunity, likelihood, of recidivism.

2 I would, again, as Chairman of the Board, it  
3 would be helpful to look at what's going on and make some  
4 recommendations, because coming from you, it's a lot different  
5 than coming from me. You're the one that will make the decision  
6 on how effectively the programs are being used, and how  
7 important and valuable they are to bear on the decision that  
8 you're about to make.

9 So, I'd encourage you, when you're at these  
10 various places that I've never heard of, that you go in and  
11 knock around a little. I'm sure your presence there would have  
12 a very positive effect.

13 I'm sorry that everybody's had to be in another  
14 room. Any other questions or any questions?

15 SENATOR ASHBURN: Just one comment,  
16 Mr. President.

17 That is, in considering the confirmation of the  
18 Chairman of this really critical board, it has become, I think,  
19 very clear at least to me, and I think to others, that  
20 structurally we've got a problem, because, you know, Mr. Davis  
21 has admitted that a mistake was made, a very significant  
22 mistake.

23 But in all fairness to the Chairman and the other  
24 members of the board, they have the expert staff -- they have an  
25 executive officer, an executive staff; they have counsel; they  
26 have deputy counsel -- to make sure that mistakes like this are  
27 not made.

28 And yet, the reporting relationship between the



1 Chair of the board, the members of the board, and the staff is,  
2 well, there is no authority with the Chair and his staff.

3 I think that's wrong. I don't understand how we  
4 can hold the Chair accountable, and the board members  
5 accountable for their actions, whether they're correct or a  
6 mistake, when they don't have any relationship, nor power, nor  
7 control, nor oversight of their executive staff nor counsel.

8 Now, the Legislature created this. I think we  
9 ought to change it.

10 And I think Mr. Davis has been very straight  
11 forward in admitting the mistake that was made.

12 I personally am convinced that you, sir, are  
13 sincere in the reviews that you make, and in your attempt to be  
14 fair in the hearings that you conduct.

15 But I want to hold you responsible for the  
16 actions of the board, but I'm having a difficult time doing that  
17 when you're not responsible for the hiring, the oversight, nor  
18 the administration of the board and its staff.

19 MR. DAVIS: Senator, if I may, let me just -- I  
20 won't back away from my responsibility to have seen the error  
21 that day.

22 And just for clarification also, I should add  
23 that not only did we detect that error, but we also put in place  
24 a mechanism so that that error doesn't occur again. We changed  
25 our voting sheet, and that was in part done by staff. Staff  
26 helped develop that sheet so it wouldn't happen again.

27 This was something of a technical error that did  
28 occur. And I don't want to, in any way, shape, or form, have

1 anyone else -- this was my responsibility. And regardless of  
2 who's responsible for hiring and firing, and all those other  
3 kinds of things that go on, all those administrative tasks, I  
4 was the Chair of that meeting. This was my responsibility, not  
5 anyone else's.

6 SENATOR ASHBURN: Thank you, sir.

7 SENATOR CEDILLO: I'm sorry. I really hate when  
8 somebody comes late to a meeting, and then you've got to go back  
9 and review the meeting.

10 CHAIRMAN PERATA: But you will.

11 [Laughter.]

12 SENATOR CEDILLO: So, tell me about this mistake.  
13 What was the mistake you made?

14 MR. DAVIS: Effectively it was -- it was in the  
15 closed session process of the en banc hearing. You understand  
16 that the en banc hearings are, all the commissioners will get  
17 together. We will appear as a group. There will be people who  
18 will come and testify regarding the status of a variety of cases  
19 that have been reversed, or tie votes, those sorts of things.

20 In this particular case, the process went forward  
21 as usual. That is, there was discussion independently of each  
22 case that was before us that day. These were taken independent  
23 of one another.

24 The discussion went its full length. When there  
25 was no more discussion to be had, at least from my point of  
26 view, looking at that the discussion had waned, I asked for  
27 additional clarification. Seeing none requested, there was a  
28 request for a motion.

1           Now, the motion could have been to either agree  
2 with the original panel and concur with the date, or to -- or  
3 what should have been, to set for a recision hearing.

4           The motion as it came out was to deny parole.  
5 There was a second and additional discussion, then a call for a  
6 voice -- a roll call vote, if you will.

7           The error was made in two particular cases. Both  
8 of -- the error was noticed some hours later by staff and  
9 myself, and steps were taken to correct that. And then  
10 ultimately, steps were taken after that.

11          The Executive Officer and I approved paperwork to  
12 ensure that that kind of error doesn't occur again, to make it  
13 very, very clear, as opposed to a whole list of different things  
14 that could be motions, to include for those particular cases  
15 what the only options are. And so, there will be no confusion  
16 in the future.

17          That was done through work by our legal staff and  
18 the Executive Officer. Those are the people who put that  
19 together.

20          SENATOR CEDILLO: Why was the motion to deny a  
21 mistake?

22          MR. DAVIS: Because it should have been a motion  
23 to send the case back to a recision hearing, which is a  
24 different sort of a hearing.

25          The intent of the board was, as I mentioned the  
26 intent of the board was consistent. The intent was not to agree  
27 with the original panel based on the vote.

28          But the mechanism by which it would go back, and



1 the type of hearing to which it would go were different.

2 SENATOR CEDILLO: So, it was a mistake because  
3 you didn't have the authority to move a motion to deny?

4 MR. DAVIS: No -- well, yes, in essence. The  
5 motion should have been, the appropriate motion based on that  
6 particular case, and the amount of time that had run between the  
7 original decision and the time that we were now considering it  
8 should have been to send it to a recision hearing, yes.

9 SENATOR CEDILLO: That was not a decision for you  
10 to make?

11 MR. DAVIS: Correct.

12 SENATOR CEDILLO: And you said steps were taken  
13 to rectify this mistake or cure it.

14 First of all, what's the impact of that mistake,  
15 the motion? If you moved to deny rather than to move to a  
16 recision hearing, what is the impact of that mistake?

17 MR. DAVIS: I suppose the first impact would be  
18 confusion, perhaps, on the part of the people directly involved  
19 as to what was going to happen next. So, there is that.

20 Aside from that, there were -- no one's rights  
21 were violated. There wasn't any additional time assigned to  
22 it. In fact, both of those -- one hearing, one recision hearing  
23 has already been conducted, and the other one is on calendar, I  
24 believe.

25 SENATOR CEDILLO: So, these inmates had a right  
26 to that hearing and it was denied?

27 MR. DAVIS: No. Well, certainly they have a  
28 right to a recision hearing. The hearing was not denied nor

1 necessarily delayed.

2 In each case, after a -- had there, for example,  
3 had there been -- had the motion gone through as it should have,  
4 and --

5 SENATOR CEDILLO: Had it gone through as it  
6 should have, and it should have gone that way because this is  
7 their right; is that correct? It's a right held by the  
8 prisoner.

9 MR. DAVIS: It's the law, yes.

10 SENATOR CEDILLO: It's the law. And the law  
11 dictates that prisoners have this right to this recision  
12 hearing.

13 The choices: it's a recision hearing or an  
14 overruling of --

15 MR. DAVIS: Or agreement with the original panel.  
16 Those are the two choices.

17 SENATOR CEDILLO: Correct. Overruling the action  
18 taken by the Governor, in this instance; correct?

19 MR. DAVIS: Well, it comes back from the  
20 Governor's Office, and now it's a matter of we have to, because  
21 of the time that's gone by, it's either a matter of agreeing  
22 with the original panel or sending it to a recision hearing,  
23 yes.

24 SENATOR CEDILLO: And that is a matter of law, as  
25 you said, and a matter of right. I mean, the law at that point  
26 is designed to protect the rights of the prisoner.

27 MR. DAVIS: It's -- I'm sure it's designed to  
28 protect everyone's rights. It is a matter of that's the way the

1 process has been established.

2 SENATOR CEDILLO: That's the due process?

3 MR. DAVIS: Yes, that's the due process.

4 SENATOR CEDILLO: Right. And the petition for  
5 that due process comes from the prisoners?

6 MR. DAVIS: Well, not a petition. This is a --  
7 these cases proceed this way without anyone stepping into the  
8 process. As a normal course, they proceeded the way they would  
9 normally go.

10 SENATOR CEDILLO: I understand that. The  
11 prisoners have a right to one of these two actions to occur?

12 MR. DAVIS: Yes.

13 SENATOR CEDILLO: And you made a mistake in not  
14 respecting either one of those options that was available?

15 MR. DAVIS: I don't know if I would characterize  
16 it as not respecting it. It was a matter of not understanding  
17 that we were making an error at that particular time.

18 SENATOR CEDILLO: That's the reason, but the  
19 rights are either respected or not respected. Your reason for  
20 not doing is, you didn't understand that you were doing that.

21 MR. DAVIS: Yes, I did not -- I did not know that  
22 we were making an error at the time.

23 SENATOR CEDILLO: Right.

24 So, tell me about the process of rectifying that.  
25 You said you found that the out shortly, and then what did you  
26 do to rectify that? How did you find out that you made a  
27 mistake?

28 MR. DAVIS: You know, it was one of those --

1                   SENATOR CEDILLO: Is this the first time you  
2                   done this?

3                   MR. DAVIS: First time I've done what?

4                   SENATOR CEDILLO: One of these hearings?

5                   MR. DAVIS: No. I was appointed as the Chair in  
6                   the latter part of June, so I'd done a few before this.

7                   SENATOR CEDILLO: So what steps were taken to  
8                   rectify it? How did you find out you made a mistake?

9                   MR. DAVIS: Well, it was one of those things  
10                  where people, myself and others, you know, we made a mistake  
11                  here. We realized that there was an error made, and then steps  
12                  were taken to correct the postings of the information. And then  
13                  that's really all that needed to occur at that point, the  
14                  changing of the postings, and then the putting forward of the  
15                  two inmates for -- to calendar for a recision hearing.

16                  SENATOR CEDILLO: Okay, so your representation is  
17                  that they did have the recision hearing?

18                  MR. DAVIS: One I know for sure has had his  
19                  recision hearing and I believe is currently out of custody. The  
20                  other one I believe is currently on calendar.

21                  SENATOR CEDILLO: So the person is out of  
22                  custody, which means had they not, had this not -- how was this  
23                  brought to your attention?

24                  MR. DAVIS: There were two or three of us --  
25                  myself, the chief legal counsel, I believe one of the other  
26                  commissioners. There was a couple of phone calls that were  
27                  traded. You know, did we do the right -- did we make the right  
28                  motion? I think there's an error here.



1           We began to look at it, and realized yes, there  
2       was an error.

3           SENATOR CEDILLO: When did you notice the  
4       prisoners that this had not occurred as to what they had a right  
5       to?

6           MR. DAVIS: Well, that would have been done  
7       through a normal process. I don't know when they would have  
8       gotten it, when they would have gotten that notice.

9           SENATOR CEDILLO: Because they're not there when  
10      you're doing this hearing?

11          MR. DAVIS: No.

12          SENATOR CEDILLO: So, what was the impact on the  
13      inmates, on the prisoners?

14          MR. DAVIS: I don't believe, aside from  
15      possibly -- if they learned about the initial decision  
16      immediately, then possibly some confusion.

17          But in terms of any rights violation, or any  
18      delay in the time of which they would have been scheduled for  
19      the recision hearing, there would have been none.

20          SENATOR PADILLA: On those same notes, I think  
21      what we're struggling to understand is how oversight, to put it  
22      mildly, can occur? You said you've had similar cases. This  
23      isn't the first of its type that you've entertained, and  
24      certainly not as the Chair.

25          How do you not recall what your options are and  
26      what your options aren't in these cases?

27          MR. DAVIS: Well, sometimes it comes down to  
28      requesting clarification from legal counsel as to what the

1 options might be, to be sure that we're on point.

2 Again, in this case, all I can tell you is that  
3 we thought we made the right decision at the time, and clearly  
4 we did not.

5 SENATOR PADILLA: Two times you described what  
6 happened in this meeting. You said you made time to seek  
7 clarification. You asked those questions.

8 MR. DAVIS: Right, and that's a normal process,  
9 to be sure that all commissioners have had the opportunity to  
10 ask any questions that they have, or any clarifying information.  
11 I just want to be sure that everyone's had the opportunity to  
12 get everything resolved in his or her mind before they are asked  
13 for a vote.

14 SENATOR PADILLA: So, when the motion was made,  
15 and before you voted on it, you have support staff there. I  
16 haven't been to one of your hearings, but whether it's lawyers  
17 or anybody else, nobody else from the staff chimed up and  
18 said --

19 MR. DAVIS: There was legal counsel in the room,  
20 and none of us noticed it.

21 SENATOR PADILLA: They blew it.

22 MR. DAVIS: Exactly.

23 SENATOR PADILLA: The commissioners were over  
24 five there, or how ever many commissioners were there blew it.

25 MR. DAVIS: We all did.

26 SENATOR PADILLA: Even in the paperwork presented  
27 before you in preparation for this case, no where in there was  
28 there a section, whether it's recommendations or options, it's

1       this or this?

2               MR. DAVIS:  As I said, the previous document had  
3       probably six or eight options of what kinds of motions might be  
4       made on any given case.

5               Our current paperwork that we have developed is  
6       specific to each individual case, so that no two are the same.  
7       So each individual case, with the person's name for whom the  
8       hearing is being held or the discussion is being held.

9               And the only options that we have available to us  
10      are listed on that sheet.

11              SENATOR PADILLA:  That wasn't the practice  
12      before?

13              MR. DAVIS:  That was not the practice before.  It  
14      is the practice now.  And we went a step further in attaching a  
15      fail safe to it, that it has to be signed by the Executive  
16      Officer or myself.  So, there has to be a final approval process  
17      as well.  So, we're trying to vet it every way we can to make  
18      sure that we don't make any errors.

19              SENATOR PADILLA:  Another couple questions on a  
20      different topic, coming back to the postponements.

21              You mentioned earlier, of the large number of  
22      postponements, and I forget what percentage of the hearings  
23      scheduled result in being postponed, but a good chunk of them  
24      you know in advance whether, it's a psych evaluation that's not  
25      ready, or for any other reason.

26              MR. DAVIS:  Some are known in advance, many are  
27      not.  In some cases the psychological report may not arrive to  
28      the panel until the day of the hearing, or the week of the

1 hearing. And depending on defense counsel, some defense counsel  
2 is -- accepts that. It depends on -- each case is different, of  
3 course. Some defense counsel wants their -- wants the ten-day  
4 period to be able to review that.

5 There are a lot of different -- there are many,  
6 many variables in how this happens.

7 SENATOR PADILLA: The point of my question is, is  
8 there a mechanism for inmate's family to be notified if it's  
9 known ahead of time that it will be postponed, or victims for  
10 that matter?

11 MR. DAVIS: Well, in terms of notification, we  
12 notify the -- if they are victim's next of kin that are known,  
13 to the extent that we have -- that it's possible, we do have  
14 staff in the Board of Parole Hearings who do notify victim's  
15 next of kin as soon as we know.

16 Again, unfortunately, and it's -- and it is one  
17 of the more difficult things to do, to have to explain to people  
18 who have in many cases driven some distance, gone to a great  
19 deal of inconvenience, and the emotional parts of getting ready  
20 for one of these on both sides of the table, to explain to them  
21 that I'm sorry, we're not going to be able to go forward because  
22 we have a problem in the system that just won't allow us to.

23 So, yes, there are mechanisms. But it's a  
24 difficult thing to do, and we try to avoid that when ever  
25 possible.

26 And I think these -- the three initiatives that I  
27 spoke about earlier will be things that will greatly enhance our  
28 ability to lessen, if not eliminate, a lot of these



1 postponements, because we're going to know 90 days out what's on  
2 there and what's not, as opposed to 30 days out as we do now.

3 SENATOR PADILLA: So, this best effort, these  
4 mechanisms that do exist for notification of both sides of the  
5 table, are they as the result of a requirement, a mandate, or  
6 just you choose to do it?

7 MR. DAVIS: Well, the notification, the inclusion  
8 of the victim's next of kin or victims is, of course, something  
9 that's contained in Title 15.

10 SENATOR PADILLA: Correct, on the scheduling of  
11 the hearing. What about the postponement, if it's known in  
12 advance that this one will be postponed?

13 MR. DAVIS: Then we will make any effort to  
14 contact all the people involved.

15 SENATOR PADILLA: But is that out of the kindness  
16 of your heart, or is that a requirement?

17 MR. DAVIS: It's the right thing to do. And I  
18 know that we work very hard at doing it.

19 I'm not sure if it's something that is a policy  
20 or not.

21 SENATOR PADILLA: Because if it's a requirement,  
22 then you can be held to a higher level of accountability for the  
23 notifications or not.

24 We all agree it's the right thing to do.

25 MR. DAVIS: And ultimately the accountability is,  
26 again, we are there to be the independent third party that is  
27 fair to all the people involved in this process. And that is  
28 part of the accountability, that if we're not doing everything

1 we can to make sure this works properly, we're not doing our  
2 job.

3 CHAIRMAN PERATA: We're now at the audience  
4 participation portion of the hearing. If anyone would like to  
5 come up and speak in favor of the nominee, please do so.

6 CHIEF WORD: Good morning, Chairperson Perata,  
7 Members of the Committee. I'm Police Chief Richard Word of the  
8 Vacaville Police Department. I'm a former chief with Oakland  
9 PD, and I'm the incoming President of the California Police  
10 Chiefs Association.

11 We believe, the California Police Chiefs  
12 Association that is, that the board and the public in fact would  
13 benefit from the experience of Commissioner Davis' thinking.  
14 He's had a distinguished 30-year career in law enforcement,  
15 concluding, of course, his career as Chief of the El Cajon  
16 Police Department. During his tenure, as he's mentioned, he  
17 served as co-founder, past president and a youth board member of  
18 the El Cajon Youth Development Advisory Council.

19 He has, we believe, an established track record  
20 of openness, as he's indicated here: honesty, balance, fairness,  
21 and compassion. We believe he understands and supports  
22 alternative means or methods of incarceration, and that he  
23 always has the best interests of the public in mind.

24 For these reasons, the California Police Chiefs  
25 Association strongly support Commissioner Davis' confirmation to  
26 the Board of Parole Hearings.

27 Thank you.

28 CHAIRMAN PERATA: Thank you, Chief.

1 Good, we got you off the street corner.

2 [Laughter.]

3 MR. LOVELL: Good morning, Mr. Chairman, Members  
4 of the Committee. My name is John Lovell, and I'm here on  
5 behalf of the California Narcotic Officers Association and the  
6 California Peace Officers Association.

7 Both organizations are strongly in support of  
8 Chief Davis' confirmation. He has a distinguished record, as  
9 Chief Word indicated, but I want to also add a personal note  
10 here.

11 I've represented the California Police Chiefs  
12 Association since 1993, and I've dealt with lots and lots of  
13 police chiefs. And police chiefs generally tend to be  
14 problem-solving by nature, because that's the nature of their  
15 discipline.

16 But in that universe, I can tell you based on my  
17 experience that Chief Davis was on a very short list of chiefs  
18 who were extraordinarily thoughtful, very global in their  
19 thinking in looking at the whole seamless garment of public  
20 safety. From prevention, intervention, accountability, this is  
21 a very quality guy who, I think, is the kind of person who can  
22 deliver the reforms that are necessary. And I think he is just  
23 in the finest tradition of public service.

24 CHAIRMAN PERATA: Thank you.

25 MR. RIEBE: Mr. Chairman and Members of the  
26 Committee, my name is Todd Riebe, and I'm the elected District  
27 Attorney in Amador County. I also sit as the co-chair of the  
28 California District Attorneys Association's Lifer Committee, and

1 as such I'm very familiar with the lifer issues that confront  
2 the prosecutors across the state on a daily basis.

3 At the CDA Winter Conference, lifer issues were a  
4 very much discussed topic by the elected DAs. More  
5 specifically, the DAs expressed a strong belief that we as an  
6 association and as individual electeds need to retain fair  
7 minded and experienced commissioners on the Board of Parole  
8 Hearings.

9 Commissioner James Davis is such an individual,  
10 and he has the support of CDA and the individual members of the  
11 Lifer Committee.

12 I want to say that this support was not lightly  
13 given. It was earned, and it was earned both by Commissioner  
14 Davis' background and his performance on the Board of Parole  
15 Hearings.

16 As you're aware, Penal Code Section 5075.6(b)(1)  
17 demands that the commissioners that are selected to hear adult  
18 matters under the jurisdiction of CDCR, they shall have a broad  
19 background in criminal justice, an ability for appraisal of  
20 adult offenders, the crimes for which those persons have  
21 committed, and the evaluation of an individual's progress  
22 towards reformation.

23 And you know, it just makes sense from a public  
24 safety perspective that the people who are deciding whether  
25 lifer inmates are going to be released back into society after  
26 serving time for committing crimes that are serious, violent,  
27 and sometimes very horrific, that they have a broad criminal  
28 justice background so that when they're releasing the inmates,



1 they're releasing them because they have the tools to see if  
2 they've been truly reformed and that they do not pose an  
3 unacceptable risk to others in our community.

4 Jim Davis, as we've heard, has that broad  
5 criminal justice background. And this background and  
6 understanding of the criminal justice system have made him a  
7 more efficient and more effective commissioner.

8 Commissioner Davis has distinguished himself  
9 during his time on the -- rather brief time on the Board of  
10 Parole Hearings. That's because of his solid understanding and  
11 consistent application of the law. He is a quick learner. He's  
12 intelligent. As you've heard today, he is accountable. The  
13 buck stops with him. Nobody -- the example that we heard about  
14 the mistake, nobody in that room caught that mistake. He took  
15 accountability for it. That's what you -- that's what a leader  
16 does.

17 He builds a good record for appeal, which  
18 benefits both the victims and lifer inmates alike. He is  
19 sensitive to the rights of all who appear before him, and we  
20 don't -- he doesn't always agree with prosecutioners either.  
21 According to data compiled by the Doris Tate Crime Victims  
22 Bureau, he's granted 12 parole dates for lifer inmates in a  
23 10-month period.

24 Commissioner Shelton, whom you recently voted to  
25 confirm, granted 12 dates in a 9-month period.

26 What is important to prosecutors at the end of  
27 the day -- win, lose or draw -- is that the decisions that are  
28 made are well reasoned, factually based, and most importantly,

1 fair.

2 Commissioner Davis' decisions have all of these  
3 traits, and that is why he has earned the support of victims'  
4 rights groups, the California District Attorneys Association,  
5 and the individual elected district attorneys from Los Angeles,  
6 San Bernardino, Riverside, Amador, Butte, Sacramento, San Luis  
7 Obispo, El Dorado, Lake, Napa, Kern, Placer, Santa Barbara,  
8 Santa Clara, Ventura Counties.

9 I've personally spoken -- I don't know if they  
10 sent letters directly to this Committee -- but I've personally  
11 spoken to Fresno County's District Attorney Elizabeth Kams-Egan,  
12 Tehema County District Attorney Greg Cohen, and Colusa County  
13 District Attorney John Poyner. They all said that they, two  
14 thumbs up, wholeheartedly support the confirmation of  
15 Commissioner Davis.

16 I also have spoken with San Diego's office.  
17 Unfortunately Bonnie DuManis was on vacation, but I was assured  
18 by her aide that she would write a letter and did support the  
19 confirmation of Commissioner Davis.

20 Some counties chose to send representatives. Los  
21 Angeles has sent several representatives. Riverside has sent  
22 several representatives. And Alameda County has sent Jill  
23 Klinge to speak in support of Jim Davis.

24 So, we feel that he is the right man for the job.  
25 He has been and he will continue to be an excellent  
26 commissioner. He deserves your support, and I hope that you  
27 give it to him.

28 Thank you very much.

1 CHAIRMAN PERATA: Thank you.

2 MR. DAHL: Mr. Chair and Members of this  
3 Committee, my name is David Dahl. I am a head deputy district  
4 attorney with Los Angeles County.

5 I'm here today to speak on behalf of the District  
6 Attorney of Los Angeles County, Steve Cooley.

7 I thank you for the opportunity to come here to  
8 speak to you in support, strong support, of Mr. Davis for  
9 confirmation to the position of Chair and commissioner on the  
10 Board of Parole Hearings.

11 Unfortunately, much of what I was going to say  
12 was read by District Attorney Riebe beforehand, and so I will  
13 not repeat the notes I felt I had eloquently prepared, but he  
14 ended up reading here.

15 CHAIRMAN PERATA: That's the difference between  
16 you and us. We would go ahead and say it again.

17 [Laughter.]

18 MR. DAHL: I think it is important, though, to  
19 emphasize that the broad experience that Commissioner Davis  
20 brings to the plate here serves the public well.

21 I was involved, I had the privilege of being  
22 involved in some of the initial training for Commissioner Davis  
23 put on by the board, along with Dick Fence, counsel from  
24 Sacramento. And I was particularly impressed during the  
25 training with the ease in which Commissioner Davis was able to  
26 adapt to and understand the process of conducting a hearing.

27 To that end, parenthetically, I would encourage  
28 each and every Member of this Committee to involve themselves

1 personally in attending hearings to better understand the  
2 process.

3 This is a board unique amongst any other board, I  
4 believe, where they are conducting quasi-judicial business. They  
5 are functioning as judicial officers, and are bound by the  
6 rules, the same as a court. That is a tremendous  
7 responsibility, obviously. It is a tremendous issue that is  
8 presented to them.

9 To Senator Cedillo in particular, I would  
10 emphasize, based on his experiences many years back with Service  
11 Employees International Union as a representative in Civil  
12 Service Commission hearings, there's a strong similarity,  
13 Senator, to the work that is done by the Board of Parole  
14 Hearings.

15 There is the Commission, the Civil Service  
16 Commission, the Board of Parole Hearings, that sits  
17 collectively, and then there are the hearing officers that  
18 determine facts in the particular case and make findings and  
19 conclusions. Those are also the commissioners, but  
20 individually.

21 And having been in front of them, you have some  
22 sense of the environment, which is a quasi-judicial proceeding.  
23 That is precisely what we encounter in these hearings.

24 And Los Angeles County is pretty much the 400-  
25 pound gorilla in this process. We have 12,000 approximately  
26 lifer inmates. Of these hearings that the board has done,  
27 perhaps 4500 hearings this year, perhaps more, I'm not certain  
28 of my numbers, I do know that Los Angeles County was involved in



1 2400-plus hearings. So, we see a lot of each of the  
2 Commissioners. And we would encourage you to come forward to  
3 actually see them.

4 And for Senator Cedillo and Senator Padilla in  
5 particular, we have the availability in Los Angeles, and the  
6 other counties as well have the ability to give you the  
7 opportunity, just like victims, to come and participate in these  
8 hearings by video teleconference, to observe what is occurring  
9 in these hearings. And I would encourage both of you to contact  
10 our office to, if the opportunity presents itself, to observe  
11 these hearings.

12 But in returning specifically to Commissioner  
13 Davis, and I'll try to be very brief on this, the one note that  
14 I make in observing the work of the rest of the prosecutioners  
15 in our office that do these hearings is, to a person, they come  
16 back, whether a hearing resulted in a denial of parole or a  
17 grant of parole, with the comment, "I may or may not have agreed  
18 with him, but I got a fair hearing."

19 What more can you ask from a person who is going  
20 to be making the most important decisions regarding some of the  
21 most egregious crimes and the concern for public safety in the  
22 community?

23 On a personal note, in observing Mr. Davis as  
24 the Chair, I am impressed by the fact that in the proceedings  
25 that occur every month, the en banc meetings, he holds everybody  
26 to the same standard. Whether it's a prosecutor, whether it's a  
27 victim, whether it's family member of an inmate, or whether it's  
28 another member of the board, the standards are set. He imposes

1 the same rules on each individual judiciously, cautiously, and  
2 politely.

3 I would very strongly urge you, on behalf of  
4 District Attorney Steve Cooley, to confirm James Davis for the  
5 position.

6 Thank you.

7 CHAIRMAN PERATA: Thank you.

8 MR. MILLER: Good morning, Mr. Chairman,  
9 honorable Members. My name is Donald Miller. I represent two  
10 law firms in Southern California and a number of individual  
11 attorneys who do parole hearings. We're very active in the  
12 litigation of these cases.

13 Approximately 27 lifers have been released,  
14 mostly through the courts on the cases we've worked on over the  
15 past four years or so in reversing decisions by the board and  
16 the Governor.

17 In a very unusual role, I'm here today to  
18 strongly join with crime victims, district attorneys, and  
19 everybody else that's speaking in favor of Mr. Davis to strongly  
20 recommend his confirmation for the following reasons.

21 First of all, there's been a great improvement in  
22 all of the things that can be improved since Mr. Davis has been  
23 seated. There's nothing he can do about -- and I'd like to  
24 correct two errors, by the way.

25 The hearing backlog is really closer to 4,000  
26 instead of 1,000. It's been determined in the case of  
27 Rutherford. There's nothing -- it's a problem Mr. Davis  
28 inherited. If you have time later, I can explain again how that

1 can be cured, but there's nothing that this board, which is  
2 really more like a police commission than a parole determination  
3 board, can cure unless Senator Ashburn's suggestion is taken up,  
4 and the Legislature takes a close look at the statutes or puts  
5 some teeth in them.

6 The legal department used to be a mess, and I say  
7 that because -- and maybe your staff ran into the same  
8 problem -- the board's legal department didn't respond to  
9 communications. We didn't get answers. We didn't get tapes.

10 Now it's been reorganized. There is prompt  
11 response to every inquiry. We may not agree with the decision  
12 that's made, but we get a response.

13 Secondly, Mr. Davis shortly after he was seated,  
14 inherited an additional backlog. The board was seven months  
15 behind in having hearing transcripts prepared. The Penal Code  
16 requires that after a parole hearing, the transcript be prepared  
17 in 30 days and available to the public. New staff was  
18 appointed, new certified transcribers were hired, and they're  
19 now only about two months behind. And I'm certain that in a few  
20 months, they'll be caught up. This is with Mr. Davis'  
21 leadership and the leadership of John Munday, the Chief  
22 Executive of the Board, who I know work closely together.

23 Thirdly, as opposed to many of his predecessor  
24 board chairmen, Mr. Davis, in addition to a heavy load of  
25 administrative duties, goes out to a number of different prisons  
26 and holds hearings. With the possible exception of Susan  
27 Fisher, there's been nobody that I know of in the last 20 or 30  
28 years that's done as many hearings as a chairman than Mr. Davis.



1 So, he's doing everything that he can.

2 Finally, his decisions, and I've read over 30 of  
3 his transcripts. I don't know how many of you, or how many  
4 people in this room have read the transcripts of his hearings  
5 from cover to cover.

6 His hearing -- his decisions, although we'd like  
7 to see more parole dates given to those individuals who don't  
8 pose a risk to society, are very well reasoned. He exercises  
9 extreme caution and discretion in determining whether to deny  
10 parole for one year, two years, or up to five years, which the  
11 panel has the discretion to do.

12 And he gives the prospective parolee suggestions  
13 and information on how he or she can prepare himself or herself  
14 to be parole suitable in that period of time, and why that time  
15 is required, instead of just reciting the crime and not giving a  
16 reason at all.

17 You know about Mr. Davis' background with youth  
18 and working with probation, and you made a point of that last  
19 week in confirming Ms. Shelton.

20 And finally, I'd like to explain two things. The  
21 en banc process, there are two different types of decisions that  
22 are made. A, in resolving a split decision between a panel, one  
23 member voting for parole and one voting against. The en banc  
24 panel has to decide parole or -- parole granted or parole  
25 denied.

26 B is a decision that's referred back to the board  
27 by the Governor, who in a nonmurder case usually, to see if the  
28 board could rescind that parole grant. Unfortunately, that is



1 supposed to be used sparingly, and now the Governor does it in  
2 almost every case. That's Decision B.

3 What happened here is, inadvertently A and B got  
4 mixed up and the wrong motion was made. These things occur in  
5 every state agency, I'm sure. And fortunately, it was very  
6 quickly corrected.

7 I don't know that that would have been the case  
8 under a predecessor chairperson.

9 We strongly suggest that the -- not just this  
10 Committee, but the Senate, the entire Legislature, take Senator  
11 Ashburn's suggestion and take a look at this.

12 When you -- when your predecessors wrote the  
13 statute, Penal Code Section 5075, and named nine commissioners,  
14 you also passed another statute, 3041, that said when a life  
15 prisoner has satisfied all the requirements and no longer poses  
16 an undue risk of danger to public safety, the only real  
17 professional determinant of that is the psychological report,  
18 the panel shall normally grant parole, anticipating about a 50  
19 percent parole rate. But of every hundred hearings, less than  
20 one actually paroles. Between the board and the Governor,  
21 they're all chopped down.

22 So, of course there's a backlog, and it's going  
23 to get worse unless the Legislature takes a look at this system.

24 Please don't make Mr. Davis a scapegoat for the  
25 problems that exist now with the board. He's probably the  
26 finest commissioner, along with Mr. Munday, the Executive  
27 Officer, the best chance for the board's problems to be solved.

28 We respectfully support strongly Mr. Davis'

1 nomination. Thank you very much.

2 CHAIRMAN PERATA: Thank you.

3 MS. KILLEEN: Good morning. My name is Kate  
4 Killeen. I serve as the Deputy Executive Director for the  
5 California District Attorneys Association.

6 And I'm here on behalf of the association to  
7 express the wide spread support among the prosecution community  
8 in California for the reasons you've already heard this morning,  
9 and particularly by CDA itself, for the confirmation of  
10 Commissioner Davis.

11 Continuity in service and continued development  
12 of experience of the chair certainly will inure to the benefit  
13 of the administration of justice and the overall efficiency and  
14 operation of the Board of Parole Hearings.

15 In addition, I would note that I have observed  
16 Commissioner Davis at en banc hearings, and I have observed him  
17 to consistently demonstrate courtesy, sensitivity, and respect  
18 for all individuals appearing before him.

19 On one occasion when a woman, a family member of  
20 an inmate, was struggling to speak, he very patiently and  
21 sincerely encouraged her to continue forward, and his support of  
22 her effort to speak on behalf of her family member was very  
23 noteworthy.

24 Finally, I would like to express appreciation for  
25 the service of Commissioner Davis in the capacity that he fills  
26 for the Board of Parole Hearings. The task is arduous,  
27 emotionally charged, involves high stakes, involves extensive  
28 travel, and requires very careful deliberation and consideration

1 of factors that affect the due process rights of inmates as well  
2 as the safety of the public.

3 And we encourage this panel to confirm him so  
4 that he can continue to serve in that capacity for our state.  
5 Thank you.

6 CHAIRMAN PERATA: Thank you.

7 MS. KLINGE: Good morning. My name is Jill  
8 Klinge, and I've been a deputy district attorney with Alameda  
9 County for 19 years.

10 About a year ago, Tom Orloff approached me, and  
11 our county had not been consistently attending lifer hearings.  
12 He asked me to begin attending those hearings.

13 Coming from the courtroom setting and 19 years of  
14 being a strong advocate in that setting, it was a different  
15 experience to attend an administrative hearing. And I was  
16 surprised to learn how close to the courtroom setting it is, and  
17 how important it is for the commissioner to have the background,  
18 and education, and experience to bring to these hearings to be  
19 able to act in that quasi-judicial position without sometimes  
20 the benefit, obviously, of law school, years of experience in  
21 court where we start out quite not knowing what we're doing, and  
22 through all the experiences, we develop into someone that we  
23 hope is a good professional.

24 They walk into a situation with opposing  
25 attorneys who are trained, who are citing case law, making  
26 objections, and they have to have the background and knowledge  
27 to deal with that.

28 They also have to have the empathy and



1 interpersonal skills to deal the victim's next of kin, who can  
2 be quite emotional and sometimes volatile.

3 They also have to have the intelligence and the  
4 perception to be able to adequately question an inmate to  
5 determine their truthfulness and credibility.

6 They also have to have the ability to understand  
7 how to make a legal record that will hold up either on a  
8 Governor's review or appeal.

9 Commissioner Davis has all those qualities and  
10 skills. And a lot of this comes from his broad criminal  
11 background, justice background, and his experiences in the  
12 community with social service and those types of experiences and  
13 education.

14 I am one of the line deputies. I do probably 20  
15 to 30 hearings. I visit those lovely garden spots.

16 And Senator Perata, we do have video, if you  
17 don't want to go to Blythe.

18 CHAIRMAN PERATA: Leave your number at the desk.

19 MS. KLINGE: And I have appeared in front of all  
20 the current commissioners, including Commissioner Davis.

21 And I can state that he does -- and I do attend  
22 the en banc hearings -- that he does conduct every hearing in a  
23 professional and fair manner. His demeanor is impeccable. He  
24 creates an environment that allows inmates, victims, and  
25 attorneys all to express their opinion, and it all remains calm  
26 and civil, for the most part.

27 He creates an extremely good record for appeal.  
28 And that's extremely important because the number of appeals has



1 increased substantially. The local judge in my jurisdiction who  
2 deals with those speaks to me quite routinely on the records  
3 that are inadequate. But Commissioner Davis creates a good  
4 record, and that's very important to an inmate who's been  
5 granted a date, and the Governor needs to review it, and also to  
6 the protection of society when there's been a denial and a court  
7 has to review that. And it goes both ways, and Commissioner  
8 Davis does a good job with that.

9 His law enforcement background should not be  
10 considered a negative but a positive. He has extensive  
11 experience in dealing with all segments of society, and all  
12 types of individuals. And this goes back to what I was saying,  
13 the commissioner has to be able to listen to an inmate, and has  
14 to be able to assess whether they've truly embraced the  
15 programming and truly rehabilitated themselves, and is therefore  
16 no longer a danger to society and does deserve a parole date.

17 But on the other hand, they have to have the life  
18 experiences and the ability to question the inmate to determine  
19 if this is a great con man who's been to numerous subsequent  
20 hearings, has been told what he needs to say, and has learned to  
21 talk the talk, and is not sincere and has not embraced his  
22 programming, he's just trying to get a date, and would be a  
23 danger to society.

24 And the background and education, training, that  
25 Jim Davis has gives him the ability to do that as best as anyone  
26 can. We don't have a crystal ball. We have to rely on our  
27 commissioners to glean that information during that hearing.

28 And the hearings only take from two to four

1 hours. I say "only," they are very long, and the documentation  
2 and the preparation that goes into these hearings is massive.  
3 These commissioners are asked to do four hearings a day, five  
4 days a week, two on Fridays, and it's a phenomenal amount of  
5 work. Jim Davis does it well with professional manner.

6 Public safety is our primary concern, but Jim  
7 Davis not only protects the public safety, he protects the  
8 rights of inmates and victims.

9 And the Alameda County District Attorney's Office  
10 strongly supports the confirmation of Jim Davis. Thank you.

11 SENATOR PERATA: Thank you.

12 MS. DANVILLE: Good morning. I'm Sara Danville,  
13 Chief Deputy District Attorney, Riverside County.

14 I did my first lifer hearing back in 1995. I  
15 started our lifer unit in Riverside County in 2000. I used to  
16 be a -- pardon me, 2004. I used to be line deputy like Jill  
17 Klinge, going do those prisons everyday and seeing what the  
18 commissioners do.

19 And as you've heard, going to these lifer  
20 hearings is just like going into a courtroom. And it's the  
21 commissioner who sets the tone for that hearing, just like in a  
22 courtroom it's the judge who often sets the tone for how is this  
23 going to go.

24 I can tell you, Commissioner Davis is a fair  
25 commissioner. I personally have not done a hearing in front of  
26 Commissioner Davis, but we have had our attorneys appear in  
27 front of him.

28 And there's one example that I want to share with

1 you. That was the hearing of Inmate George Cusio last summer,  
2 June of 2006. Linda Dunn represented our office. She was there  
3 with the victim's mother, the victim's father, and the victim's  
4 sister. Our victim was 18 years old. He was brutally stabbed,  
5 and this inmate had previously received a two-year denial.

6 At this hearing in '06, the family again asked  
7 for a multi-year denial. Our office asked for a multi-year  
8 denial. Commissioner Davis disagreed with us. He said no, this  
9 inmate is going to get a one-year denial.

10 But when the family and our representative left  
11 that hearing, were they angry and upset because we were  
12 mistreated? No. They left because we got what we want: a fair  
13 hearing.

14 When we go to court we don't always win. The  
15 judge doesn't always rule in our favor. But when we leave the  
16 court knowing that we got a fair hearing, then we are satisfied  
17 that justice has been done.

18 I can tell you, since I oversee the Lifer Unit  
19 now, our postponements are down, not just statewide but in  
20 Riverside County. We have one of the top five populations of  
21 lifer inmates in the State of California.

22 Another concern that was raised by Mr. Padilla  
23 was about the notification of the postponements. In the past,  
24 we would show up, and we wouldn't get notification. We are  
25 getting prior notification when we can get prior notification.  
26 So, there have been changes in the lifer unit, and Commissioner  
27 Davis has done an exceptional job as the chair of that  
28 committee.

1 I'm not only here representing District Attorney  
2 Rod Pacheco. I'm here as a citizen of Riverside County. I'm  
3 here as member of the CDA Lifer Committee, and I am really  
4 hoping that you confirm him.

5 Thank you.

6 CHAIRMAN PERATA: We're going to stipulate now  
7 that the DAs like this guy.

8 MS. DUNN: I'll be brief, I promise you.

9 CHAIRMAN PERATA: Where'd you come from?

10 MS. DUNN: Good morning. I'm from Riverside  
11 County. My District Attorney is Rod Pacheco.

12 CHAIRMAN PERATA: We remember him.

13 MS. DUNN: Well, he sends his greetings to  
14 everybody that he served with, if there are any people still  
15 here.

16 Furthermore, before I make a few brief remarks,  
17 I'd like to invite any of you to the Riverside County -- Blythe  
18 is in our county, and it's getting a bad rap. It's not a bad  
19 place.

20 So, you're welcome to come see --

21 CHAIRMAN PERATA: I didn't say it was a bad  
22 place.

23 Don't you take that back down to Riverside, now.  
24 We just commented.

25 MS. DUNN: The welcome mat is out.

26 I, too, am a member of the California District --

27 CHAIRMAN PERATA: Did we get your name?

28 MS. DUNN: Yes, Linda Dunn, D-u-n-n.



1 I'm a member of the California DAs Association.  
2 I'm the co-chair of the Lifer Committee, along with elected DA  
3 Todd Riebe.

4 And I support Jim Davis. We support Jim Davis in  
5 our office and in CDAA.

6 I'm not going to repeat what Chief Deputy  
7 Danville just told you about the hearing at Soledad. But I can  
8 just tell you this. A fair hearing is all that anybody deserves  
9 and expects in this state, and Commissioner Davis gives  
10 everybody a fair hearing.

11 I can be honest and tell you that as a career  
12 prosecutor, I rarely agree with grants of parole for convicted  
13 murderers because I believe they still present a grave risk to  
14 the public.

15 However, I feel confident that if Commissioner  
16 Davis has granted parole to people, it is only after he has  
17 listened carefully to everything that the inmate has said,  
18 everything that the victim's representatives have said, and  
19 everything that the counsel on both sides has said.

20 This man never raises his voice in hearings. He  
21 never demeans anyone. He runs everything in an orderly and  
22 workman-like fashion. He's efficient. He's careful. I've  
23 heard him today admit to making some procedural mistakes that  
24 apparently lawyers didn't catch. He is not a person who does  
25 anything in a haphazard way.

26 So, if he's granted parole to people, I believe  
27 that he did so in a prudent and careful manner, and I don't  
28 object to that, those grants of parole, because he's a fair

1 man. He's exactly the kind of person that you need as Chair of  
2 the Parole Commission.

3 This is a tough, tough job. Those people are on  
4 the road, and he conducts hearings. They're on the road five  
5 days a week, and they stay in some miserable hotels. And they  
6 have to work long, long hours and conducting up to 16 hearings a  
7 week inside a prison everyday, not optimal surroundings.

8 So, when you consider that Chairman Davis has  
9 done that and continues to do that, it is clear that this is a  
10 man that should be confirmed.

11 So on behalf of CDAA, on behalf of the Riverside  
12 District Attorney's Office, and also Crime Victims United, I am  
13 on their board, I request that you confirm Mr. Davis. To do  
14 anything else would be an injustice.

15 Thank you.

16 CHAIRMAN PERATA: Thank you.

17 Tell me you're a public defender.

18 MR. SEQUEIRA: No, I'm sorry. I'm not a public  
19 defender.

20 CHAIRMAN PERATA: I think it was Churchill that  
21 said, "Everything's been said, not everybody's said it."

22 You people come from a long ways, so I'll give  
23 you a lot of latitude.

24 SENATOR CEDILLO: You can stipulate.

25 CHAIRMAN PERATA: Go ahead, sir.

26 MR. SEQUEIRA: Thank you.

27 My name is -- thank you, Chairman Perata,  
28 Committee Members. My name is Patrick Sequeira. I'm the

1 assistant head deputy of the Los Angeles County District  
2 Attorney's Office, Lifer Hearing Unit.

3 I first attended my first parole hearing in 1987.  
4 I've had the opportunity since that time to attend a number of  
5 hearings over the years, sporadically and full-time, for the  
6 last two or three years.

7 I've had an opportunity to see number of  
8 commissioners over the years through previous administrations,  
9 probably 30 to 40 commissioners. And I have to say in my  
10 opinion, Commissioner Davis ranks in the top of all the  
11 commissioners that I seen over the years in terms of politeness,  
12 in terms of well reasoned decisions, and all the other factors  
13 and traits that have been discussed by my colleagues at this  
14 hearing.

15 I do want to just note on a slightly different  
16 issue, I know there's a concern among the Committee and  
17 throughout the criminal justice system with regards to these  
18 postponements. But the Committee must understand that a lot of  
19 these postponements are not the fault of the Chair; they're not  
20 the fault of the individual commissioners. Many of them are  
21 institutional problems. You know about the psychological  
22 evaluations; that's quite obvious.

23 SENATOR ASHBURN: Wait, wait, wait.

24 No. If they're psychological evaluations that  
25 had not been performed in a timely manner to give the  
26 commissioner who is conducting the hearing the information that  
27 they require, that is the responsibility of either the Chair,  
28 the board, or the staff.

1                   For you to dismiss that as somebody else's  
2 responsibility is unacceptable.

3                   MR. SEQUEIRA: Well, with all due respect,  
4 Senator Ashburn, if I just might --

5                   SENATOR ASHBURN: I don't understand why the  
6 district attorneys -- and I respect that there are so many here.  
7 You're from Los Angeles County. We've already had a district  
8 attorney from Los Angeles County speak.

9                   Did they take a vote in the office, you know? Is  
10 the office in favor or opposed?

11                   I mean, you're not helping the nomination here.  
12 You're not.

13                   I don't understand this. Why can't district  
14 attorneys, you know, stipulate that you're in support of this  
15 nominee?

16                   Are the two people waiting, are you district  
17 attorneys? No? Mercifully, thank you.

18                   But sir, with all due respect, if there is  
19 information that is not timely and available to the  
20 commissioners to do their work, somebody's responsible for that.  
21 And for you to say that it's beyond someone's control, I mean,  
22 in the State of California we control this process.

23                   MR. SEQUEIRA: What I'm saying, Senator Ashburn,  
24 is prior to the reorganization and the revamping of how these  
25 psychological evaluations were done, the responsibility for  
26 doing the evaluations was under the Department of Corrections,  
27 the individual institutions, the individual psychiatrists.

28                   SENATOR ASHBURN: Right.



1 MR. SEQUEIRA: So, when I say that it's not  
2 necessarily their fault that they weren't being done in a --  
3 their meaning the Commission on the Board Parole Hearing, is  
4 because they didn't have control previously. They now are --

5 SENATOR ASHBURN: They do now. We understand  
6 that. We know that.

7 CHAIRMAN PERATA: We don't have any more  
8 testimony from the outside that something is or is not wrong  
9 with the system. This is what Mr. Davis is responsible for  
10 doing.

11 And his confirmation or nonconfirmation will be a  
12 vote of confidence in getting that done.

13 So, I appreciate the fact that people came from  
14 different places. We have never seen such a run of DAs,  
15 however, coming up here. It's a little unusual. We're very  
16 suspicious by nature.

17 So, she needs a break, otherwise, she'll sue us.

18 [Laughter.]

19 CHAIRMAN PERATA: And none you could take her  
20 case.

21 So, I appreciate your being here. We're going to  
22 take a five-minute break.

23 [Thereupon a brief recess  
24 was taken.]

25 CHAIRMAN PERATA: We're reconvening.  
26 Would you like to conclude, sir?

27 MR. SEQUEIRA: I will conclude very quickly, sir.  
28 I was asked to read a letter from the District

1 Attorneys' Office. But I believe, in checking with the  
2 Senators, that letter's been received so I don't believe it's  
3 necessary to repeat anything and read it into the record.

4 I do want to thank the Committee for allowing  
5 myself and the other district attorneys who have attended to be  
6 here and to show our support for what we believe is a very fine  
7 commissioner, and who will remain not only a fine commissioner  
8 but a fine Chairman of this board.

9 I strongly urge you to confirm him. Thank you  
10 very much.

11 CHAIRMAN PERATA: Thank you.

12 Are you a civilian?

13 MS. WARD: Yes, I am not a lawyer.

14 CHAIRMAN PERATA: God bless you.

15 [Laughter.]

16 MS. WARD: My name is Chris Ward. I'm the  
17 Director of the Doris Tate Crime Victims Bureau.

18 I won't go into a long speech, simply because the  
19 DAs were kind enough to say pretty much everything that we  
20 wanted to.

21 I just wanted to make sure that you knew we were  
22 here, that we certainly appreciate Commissioner Davis.

23 I think there a misconception that as a crime  
24 victim's advocate, that we think everybody should go to prison  
25 forever and stay there. We don't believe that.

26 But we certainly do believe that if people are  
27 going to be released back into society, that they do so without  
28 harming someone else. The Board of Parole Hearings, the

1 Commissioner, have a really tough job, and being able to  
2 evaluate who's ready to go and who's not is really important.

3 Dealing with victims who have had horrendous  
4 things happen to them or to their families everyday is getting  
5 really old. I would prefer to be out of a job not because I'm  
6 fired, but because there are no more victims. And that's our  
7 main concern.

8 We believe Commissioner Davis is fair. He does  
9 let people out, but he also evaluates what needs to be done and  
10 makes sure that those that aren't ready don't go.

11 Thank you very much.

12 CHAIRMAN PERATA: Thank you.

13 MS. TATE: Good morning, Senators.

14 My name is know Debra Tate. I'm sister to the  
15 slain actress, Sharon Tate.

16 I'm here to speak to you from a victim's point  
17 of view.

18 In the early '70s, my particular killers were  
19 condemned to death by a jury of their peers, and during the Rose  
20 Bird administration, it was determined that that was unlawful  
21 and that subsequently, shortly thereafter, overturned.

22 So, my seven murderers are amongst these people  
23 that we are talking about presently.

24 I attend way too many parole hearings. I do  
25 believe that Mr. Davis is, however, a fair and impartial judge  
26 both for and against.

27 I do believe it's very, very important that we  
28 have people of a justice background that can discern, cut

1 through the crap, so to speak, that is often incurred in a  
2 Parole Board hearing. That is a very, very difficult job, and  
3 unfortunately, a job that takes a new parole board member some  
4 time to applicate into the process.

5 Being that my seven killers are amongst these  
6 people, I want you to take very carefully into consideration  
7 that it could be a person of this stature that is released into  
8 the community. There is nothing in that can bring back my  
9 particular victims, and all five of them were very personal and  
10 close friends as well as relatives.

11 I'm here for a great concern of public safety. I  
12 know what it feels like. It's far too big of a club, and we do  
13 not want any more members.

14 So, these people are the final net between us and  
15 potentially severely dangerous individuals, and I would like to  
16 see educated, impartial people committed to this board such as  
17 Mr. Davis.

18 And that's it. Thank you.

19 CHAIRMAN PERATA: Thanks for being here.

20 MR. LARK: I'm not an attorney, district or  
21 otherwise.

22 CHAIRMAN PERATA: We'll receive you then.

23 MR. LARK: Thank you, sir.

24 I'm Jim Lark. I'm a former correctional officer.  
25 I'm here as a citizen on behalf of Mr. Davis.

26 I think it's vitally important that we have a man  
27 that has the care and concern for the citizens of the State of  
28 California, as this man does, to protect the neighborhoods and



1 provide the safe streets and surroundings for our women and  
2 children to be in.

3 I also appreciate the fact that the man has the  
4 knowledge to be able to set and listen to an inmate when he's  
5 doing the hearings and know when he's given a cock-and-bull  
6 story versus the facts as they should be. And he's able to  
7 separate this information and put it together to make the right  
8 decision that he's been making.

9 As a correctional officer, it was our job to keep  
10 them behind the walls to keep the public safe, and we think we  
11 do a very good job at that. Even though I'm retired, my heart  
12 is still with that. It'll never go away.

13 And with Jim Davis, his heart's with it, and  
14 it'll never go away.

15 I ask you to very strongly confirm this man on  
16 behalf of the citizens of the State of California.

17 CHAIRMAN PERATA: Thank you.

18 Yes, ma'am.

19 MS. MASLOV: I'm just a citizen.

20 CHAIRMAN PERATA: That's okay. There's a place  
21 there, too.

22 MS. MASLOV: Hey, I'm the guy -- I represent the  
23 guys that elected you, okay?

24 CHAIRMAN PERATA: Sit down. Pull up a chair.

25 MS. MASLOV: I want him to do a good job.

26 I'm a mother. I'm Laura Maslov, I'm a mother,  
27 and I'm a mother of a public defender, Lassen County, deputy.

28 CHAIRMAN PERATA: I didn't know they had PDs in

1 Lassen.

2 MS. MASLOV: Oh, they do. She's really good.

3 I'm a grandmother, and I'm here because of public  
4 safety.

5 And I have gone through his record. He doesn't  
6 even know me. He's going, who is this woman.

7 [Laughter.]

8 MS. MASLOV: And I have to tell you, I'm sitting  
9 back there, and I'm listening, just like you all did here.  
10 Sorry, that's the Texas part of me that comes out.

11 And I'm hearing you actively taking  
12 responsibility. My God, I am so glad there's somebody in the  
13 state that will take responsibility for his mistakes. My  
14 goodness. As a citizen and a voter of El Dorado County, I  
15 congratulate you for that. I want you to know that.

16 Now, I've worked with government officials in my  
17 past job. I'm retired now. And I've worked with State of  
18 California doing video conferencing. Got all those neat video  
19 conferencings [sic] in Alameda County so that you could all see  
20 the inmates.

21 CHAIRMAN PERATA: You may want to go downstairs.  
22 The Governor's interested in transcripts.

23 MS. MASLOV: Well, hey, you know, I can do it  
24 still. I may be old, but I know what to do. In fact, I'm an  
25 expert on it.

26 There's high definition coming out.

27 But I want you to -- I sat back there, and I'm  
28 sitting in the audience, and I'm thinking, you know, this guy's

1 doing all this work, and he's working hard, and he's making a  
2 mistake. And you're holding his feet to the fire, as you well  
3 should. I'm not saying that you shouldn't. You should.

4 This guy comes across to me as honest. He has  
5 integrity because he sits there and takes responsibility for  
6 mistakes that he made. The buck stops here, just like Harry  
7 Truman said.

8 And I really support him. And I really urge you  
9 to confirm him in this position. And as a citizen, it'll do my  
10 heart good to know that we have these type of men sitting there  
11 who are fair, honest, can see through, as Jim said, the bull  
12 crap.

13 Because you know what? I have a son-in-law right  
14 now who is having to deal with a three-time felon who's playing  
15 bull crap. And you know where he learned it? In the prisons,  
16 because they do it.

17 And this gentleman could see through it. And  
18 that's what I'd like to see on that board.

19 And I'm not -- I want reform. I want inmates to  
20 be able to get out when they're honestly reformed. But I don't  
21 want to see another any Singleton go to Florida and kill  
22 somebody because somebody let him out in California and made  
23 us -- and I'm a native Californian, so that really makes me  
24 mad -- made Californians look like idiots.

25 So, that's all I have to say.

26 CHAIRMAN PERATA: Thank you.

27 MS. MASLOV: I hope you support and confirm him.

28 CHAIRMAN PERATA: Anyone here in opposition?

1 MR. WARREN: Good morning. My name is David  
2 Warren.

3 Yes, I am a retired attorney, so I hope you won't  
4 hold that against me, but right now I'm a volunteer Jewish  
5 chaplain at three of our state's prisons. One I travel 500  
6 miles each way on I my own nickle because the Department of  
7 Corrections has inadequate funds for chaplains.

8 My perspective's a little bit different than most  
9 people's, because my parents did hard time at Auschwitz, Dachau,  
10 and Bergen-Belsen. So, when I view inmates and rehabilitation,  
11 it comes with a slightly skewed view.

12 I've reviewed the nominee's record, and of the  
13 approximately 500 hearings, there were only 13 grants.

14 I've also taken the opportunity to read 10 of the  
15 transcripts. Perhaps they were different ones than the prior  
16 speaker read. And I did criminal defense for many years before  
17 I retired. And my feeling is that if I were in a -- a reviewing  
18 judge, that the transcripts were inadequate to determine whether  
19 or not these particular inmates were granted a fair and  
20 impartial hearing.

21 It is fair to say that if you are a victim of  
22 crime, that you -- that a fair result is denial of parole. I  
23 can't argue that.

24 However, the Department of Corrections and the  
25 Board of Parole Hearings are not here to provide vengeance or  
26 retribution against an inmate. They are here to determine  
27 whether or not the period of incarceration has been adequate,  
28 and if the inmate has made progress towards parole.



1                   And sometimes we lose sight of that. I see it  
2 over and over again, in session after session, where we lengthen  
3 sentences with a belief that we're going to somehow fix the  
4 criminal system, and we don't.

5                   I see lifers everyday that I'm inside doing my  
6 chaplaincy. I see 60-year-old men, who have the health profile  
7 of an 89-year-old, who are denied parole. They're costing us a  
8 fortune. They're not a danger to anyone except themselves. If  
9 they're released, they're in danger, not society. And we've  
10 lost sight of that in our parole hearings.

11                  I empathize with victims of crime. I can  
12 understand their desire. But we are the State of California,  
13 and we are here to make sure the taxpayers get what they  
14 deserve. And what they deserve is a correctional system that  
15 incarcerates for a period, provides parole opportunities, and  
16 lets those people out.

17                  You've commented on the failure to provide  
18 psychological profiles. It's an epidemic problem.

19                  At the closing sessions of the hearings in the  
20 Special Session last year on prisons, one of the psychologists  
21 from the Department of Corrections made the point that they have  
22 a successful risk assessment program that they can provide to  
23 the parole hearings. They're not.

24                  What we need to do is determine an inmate's  
25 chances of success on parole, because they're never going to be  
26 100 percent accurate. They're people. They're not like cars or  
27 computers, where we can say, we make a thousand cars; we're  
28 going to have one set of brake failures. It's not going to

1       happen.

2                       What we have to do is take the risk, because  
3       that's the kind of society we live in, and we must assume that  
4       somewhere along the line, we're going to have a Willy Horton.  
5       It's inevitable.

6                       But that's not the issue. The issue is, we've  
7       got 99 success stories: people who come out. And when I see  
8       the lifers, I'm here to tell you, those few who do get out have  
9       the lowest rate of recidivism. Why? Because they've been there  
10      for 30 years. That is the incentive for them to succeed on  
11      parole.

12                      My opposition to this gentleman is not  
13      political. I disagree with the results. I disagree with some  
14      of his decisions.

15                      But the bigger issue is the nature of the  
16      appointments that are being made to the Board of Parole  
17      Hearings. We should be having penologists, criminologists,  
18      mental health experts, medical experts on the Board of Parole  
19      Hearings to adequately assess the potential for suction on  
20      parole.

21                      Unfortunately we keep getting the same people,  
22      people who have, quote/unquote, "experience in criminal law."  
23      They come with a predisposition which makes it difficult to  
24      overcome the angry cries of victims. And we need to address  
25      that if we're going to correct the overcrowding problems in our  
26      state prisons.

27                      I wish I could tell you how bad it is, how ugly  
28      it is in Avenal and Pleasant Valley.

1               Several years ago, before my father's death, may  
2 his name be for blessing, he took us to Auschwitz. And there I  
3 saw where my mother and father lived.

4               I wish you could go there, and then go down to  
5 Pleasant Valley.

6               I'm not accusing the correctional officers. I'm  
7 not accusing the administration.

8               I'm accusing the overcrowding because it's not a  
9 hell of a lot different, pardon my language.

10              And what is one of the major problems? We have  
11 people going in, and no one coming out.

12              One of the major problems of parole hearings is  
13 that inmates are advised, complete this program. And then they  
14 go back to the prison, there are no programs because the housing  
15 is in those program offices and those program buildings. And  
16 then because of correctional officers shortages, they can't  
17 program.

18              I'm going to give you the classic example. My  
19 wife and I traveled from here to the California Institution for  
20 Women down in Corona to do a Passover Seder. We arrived with  
21 all the accouterments for a Passover Seder for my congregation  
22 of 40 Jewish woman.

23              We couldn't hold the Passover Seder because two  
24 women had to be taken to the hospital. There weren't enough  
25 correctional officers to allow us to program this beneficial  
26 activity.

27              If you look at the State of New York -- which is  
28 planning on closing prisons, not building more, closing

1 prisons -- they have succeeded because of the programming and  
2 the drug diversion, which we're not doing. And the  
3 unfortunate -- our parole agency is exacerbating.

4 Now, I suggest to you, they're not bad people. I  
5 hope you understand, this is not an attack personally on  
6 Mr. Davis. It is never meant that way.

7 It is an attack on the system that keeps  
8 repeating itself over and over again. And until we change who's  
9 on the Board of Parole Hearings, it's going to continue that  
10 way.

11 For example, I see women, I see men who I think  
12 deserve an opportunity for parole. I see correctional officers  
13 who keep saying to me, "Why are these people here?" They can't  
14 go to parole hearings because we can't get an invitation. I  
15 can't get an invitation to attend the parole hearing because I'm  
16 not one of the victims. I can't come to speak in support of the  
17 inmate. Think about that.

18 Recently, one inmate came up for parole. It was  
19 one of Mr. Davis'. I don't accuse him of any impropriety. It  
20 isn't meant that way.

21 A hearing -- an attorney for the Board of Parole  
22 Hearings came to that inmate and said, "I'm going to give you a  
23 choice. If you withdraw your request for the parole hearing,  
24 we're going to give you a two-year continuance. If you go and  
25 fight it, we're giving you five years. What do you want?"

26 Now, think about that denial of due process. And  
27 when you approve this man, you are reinforcing that negative  
28 behavior.



1 I'm sure Mr. Davis has not -- I'm not suggesting  
2 he colluded in any way. But fact of the matter is that there's  
3 an institutional breakdown between what the parole officers are  
4 hearing and what's actually happening.

5 But what frightens me the most is not the denials.  
6 It's what's happening inside. Men -- and I'm going to emphasize  
7 men because women have a more optimistic view of being  
8 released -- men believe if you have life sentence, you're never  
9 getting out. What is the consequence of that? They're  
10 establishing societies inside that are extraordinarily violent  
11 and dangerous.

12 Last year, some of you at some of the joint  
13 hearings saw my 102-pound wife, soaking wet in her clothes, who  
14 participates in the chaplaincy with me. She goes out onto the  
15 yards at Folsom and at CIW. At Folsom, she is confronted by  
16 Aryan Brotherhood members. She has no fear because there are  
17 institutionalized men who, because she's a chaplain, come and  
18 escort her across the yards. These men participate in religious  
19 activities regularly. They have reformed, but they're never  
20 going to get out. They made one choice, to live a good  
21 lifestyle, but they're equated with the Aryan Brotherhood guys  
22 that precipitate crises on the yard.

23 The other thing we're doing is, we are by denying  
24 parole to lifers, creating an environment for men who are  
25 being -- who are being confronted with arrest to fight and  
26 endanger public safety officers, both inside and outside the  
27 prison, rather than surrender, because they know once they're  
28 caught, they're in forever.

1                   We have to reestablish the belief that if you  
2 participate in a appropriate conduct in prison, you have a  
3 chance to get out.

4                   Now, it's easy to generalize. There's no doubt  
5 about it, the Willy Horton syndrome.

6                   But there are lifers who are in there for  
7 stealing cookies. They have had three strikes, okay, because  
8 they had priors. But they stole cookies. Do we want those  
9 people in for life and being denied parole? Well, that's what  
10 we're doing.

11                  We are focusing too much on the victim's  
12 complaints, which are legitimate. I don't diminish them  
13 whatsoever. And the failure to program, which isn't their  
14 fault, and not looking at the recommendations of the people that  
15 deal with them on daily basis -- the chaplains, the correctional  
16 officers who see people who don't belong there. In counseling  
17 with various members -- with various correctional officers,  
18 they'll come to me and they'll say, "I've got a 60-year-old guy  
19 they won't let out, and I've got a 22-year-old violent guy that,  
20 the minute he's released, because he's going to get out in six  
21 weeks, is going to go kill someone."

22                  We've lost track of what we want to do. There is  
23 a genuine lack of leadership in the Board of Parole Hearings.  
24 They're based on fear of being soft on crime. Soft of crime is  
25 equated with letting anyone out. Soft on crime should be  
26 equated with, we've got bad guys, and I see them everyday. They  
27 scare the hell out of me in the yards.

28                  You go into Mule Creek, and you walk in that

1 yard, and I'm here to tell you, if I didn't believe strongly in  
2 my religious faith, I'd never go out there because, I swear,  
3 it's like walking in front of a train and you asking it to  
4 stop.

5 We have correctional officers go out there  
6 everyday. We have chaplains who go out there everyday, and they  
7 know who has changed, but they're not heard, and that's a  
8 terrible shame.

9 In asking you to deny this nomination, I'm asking  
10 you to do it to send a message to the Governor that we need to  
11 pick professionals, people who have expertise not just as police  
12 officers, not just as victims of crime, but people who can  
13 adequately adjudicate an effort to reform.

14 Don't get me wrong. There are men who I see who  
15 are so full of it when they come -- I mean, they come in, and  
16 they're angelic. And the minute they walk out in the yard,  
17 they'd as soon stab some guy in the back as talk to them. I  
18 understand that, but we need experts, medical and psychological  
19 experts, to make that determination.

20 Senator Ashburn suggested that what we need to do  
21 is establish certain parameters. The courts have already done  
22 that, but they're not in the statutes.

23 Taxpayers for Improving Public Safety is right  
24 now circulating a bill that we hope a Member will carry to set  
25 by statute that the profiles must be complete and ready 90 days  
26 before the hearing so that the inmate, the victim, the district  
27 attorney, and the representative of the inmate can be there.  
28 Have it all prepared so when you go into a hearing, everyone's

1 ready.

2 We should require a statement by all parole  
3 officers sufficient for judicial review to determine whether or  
4 not there's been an abuse of discretion.

5 We need to cut back the number of denials that  
6 are appealed, and the only way to do that is to make sure  
7 there's an adequate explanation. This is not being done.

8 If we look at the statistics provided by the  
9 Department of Corrections, you know who has the lowest rate of  
10 recidivism? The lifers who are released.

11 We're not listening. We're not reading the  
12 facts.

13 I ask that you deny this nomination because it's  
14 very important that the Governor and the Legislators understand  
15 it's not business as usual, because unless we do -- until we  
16 establish a Board of Parole Hearings that looks at the man and  
17 what has changed -- and pardon me if I seem a bit sexist. I  
18 don't mean that because down at the California Institution for  
19 Women, we have women that come up for parole.

20 As a matter of fact, I drove all the way down to  
21 CIW to attend a parole hearing, and I was turned away because  
22 there's a norovirus going through the prison. And because I was  
23 there to assist the inmate and not the victim, I was not  
24 informed that the parole hearing had been cancelled three days  
25 before.

26 So, the problem is, it's really great that the  
27 victims are being informed, but there are people who speak for  
28 the inmates, and they're not informed. And I have to tell you,



1 a thousand mile round trip, to be turned away at the gate is a  
2 royal pain in the neck.

3 We have a broken and flawed system. We need to  
4 address the administration of the parole proceedings. We need  
5 to determine who we want, qualified people from a broad  
6 spectrum, not from a limited one.

7 For that reason, I request that you deny the  
8 nomination. Thank you very much.

9 CHAIRMAN PERATA: Thank you.

10 Anyone further?

11 Any further comments from the panel?

12 SENATOR ASHBURN: Motion to confirm.

13 CHAIRMAN PERATA: We have a motion to confirm.

14 This has gone on for a period of time, and I  
15 appreciate everybody's forbearance, but I think it underscores  
16 the importance of the position that you hold and the problems  
17 that are attendant. And probably you could ferret out what can  
18 control and what you can't control.

19 But we have repeatedly suggested to the  
20 Governor -- I'm not a big believer in sending messages.  
21 Usually they end up getting misplaced -- but that we would like  
22 to see more diversity on the panels.

23 You probably enjoy your work as a chaplain, but  
24 if you'd like to sit to the board, file an application. I'd be  
25 happy to run that through the gauntlet for you.

26 We do need more diversity in almost every area,  
27 from ethnic to gender.

28 But what we have here today is one individual

1 who's had a lifetime in law enforcement, a very successful  
2 career.

3 We've made it fairly clear, I believe, repeatedly  
4 today with some of the substantive questions we have.

5 On the issues that I wanted to emphasize, our  
6 Budget Committee, I'm going to ask Senator Machado, he has the  
7 Budget Committee in the Senate, Sub Four, which is responsible  
8 for the budget of the Department of Corrections, I'm going to  
9 ask him to take a particular look at the postponements, and what  
10 needs to be done there. There will be the professionals from  
11 the department that will have to address that. It's obviously  
12 very costly, and I think we'd all agree that it's wrong. We  
13 need to limit that more than we have.

14 I want the consultants, CPS, I'd like them to  
15 meet with the Inspector General. Since they don't work for you,  
16 we'll have to make this a request of the Ex.O., but I want them  
17 to compare notes on the workload, because that's something that  
18 the Inspector General's been looking at for years. And it would  
19 be helpful, I think, to have someone with some background in  
20 that to collaborate.

21 I don't think there's any doubt that you've got  
22 one of the worst jobs that we can appoint you to. I think all  
23 of us who have sat here for any period of time recognize that it  
24 really is, unless you like DAs coming up saying nice things  
25 about you, it's a pretty thankless job. I'm glad that we have  
26 people that are willing to do it.

27 But we are getting frustrated. We're all term  
28 limited. We're not lifers. So, what we do here, there will be

1 replacement parts for us, and someone who sits in this chair in  
2 the future is going to have a different level of interest in a  
3 different area. And so, it's very easy for the California  
4 system of Corrections or any other system, very easy for them to  
5 lie low. And everybody, I guess, everybody does the job that  
6 they think they're entitled and are supposed to be doing.

7 But the psychological evaluations, of all the  
8 things that I've heard -- I have no control who the Governor  
9 appoints. We have a limited control on who he appoints and we  
10 can reject.

11 In all fairness to what anybody believes, and  
12 sending a message to this Governor or any other Governor, I  
13 believe this Governor's entitled to make the appointments that  
14 he believes he was elected to make in all the areas which the  
15 law requires and allows him.

16 Unfortunately, if we bounce somebody, he can come  
17 back and do the same thing again.

18 So, I'm much more prepared to work with whomever  
19 the Governor sends us.

20 You said, you told me you believe in redemption.  
21 So do I. That's why if you made a mistake, you said you did.  
22 It is refreshing. We try not to let that happen too often here,  
23 that people confess their mistakes because it's against our  
24 religion. But that you did, I think, speaks volumes.

25 But on the psychological evaluations, we just  
26 have to make sure that we do a better job. We have a system now  
27 that you've articulated that, frankly for the first time I think  
28 I get a grasp of, how many we have, what their jobs are.

1 I think it would be eminently useful to have some  
2 sense of guidelines on the use of those psych evaluations. If  
3 anything else were as important as these seem to be, we would  
4 have guidelines. They would probably be put in writing  
5 somewhere. I would encourage that to happen.

6 We will look at some of the issues that were  
7 brought up here today. It may be that it needs to be codified.  
8 They need to be placed in law to give you more support.

9 What I would like to ask you to do, I said it  
10 privately in my office, I'll say it publicly now, we'll never  
11 know what you know. We'll never see what you do. You will be  
12 able to, on a daily basis, draw conclusions about this system.

13 And I would like to benefit from that. We never  
14 hear back very often from the people that we confirm. And this  
15 sounds like a hollow offer, but I would be very interested.

16 I'm going to look at the report that's out there  
17 on workload. I'm going to follow the psych evaluations. I may  
18 well call you. I may well pop up and appear in some of those  
19 places that you talked about.

20 Mule Creek, where is that?

21 MR. DAVIS: That's a great place, by the way.  
22 It's beautiful country up there.

23 CHAIRMAN PERATA: And it's where, Susanville?

24 MR. DAVIS: The Ione area.

25 CHAIRMAN PERATA: Of course. That one I could  
26 get to.

27 But I would like to, since you are now in the  
28 position that you're in, I want to make sure that we establish



1 some communication here with you. I'd like you to initiate  
2 but I promise you that is something that we've taken enough  
3 of yours today, of those who have been here, that we'll n  
4 something come from it other than what we have right now

5 So, I am in support of your confirmation. I hope  
6 that you can do the job that you've been doing. I think you  
7 have a flavor for it. I was less interested in your career as a  
8 law enforcement officer than I was in what you've done for the  
9 past 11 months, because that's the real test for me.

10 I think you're starting to hit a stride, and I  
11 believe you're a leader. You understand systems and  
12 management.

13 So, the burden that falls to you, I think you're  
14 capable of doing it.

15 I'd like to make sure that we can help you, so  
16 don't be shy.

17 MR. DAVIS: No, sir. I would certainly welcome  
18 that participation.

19 I will tell you what I have told others, that I  
20 am everyday impressed by the dedication of the men and women  
21 that work in the Board of Parole Hearings. You have an  
22 excellent person in the person of the Executive Officer, John  
23 Munday. And I think everyone is dedicated to enhancing public  
24 safety by making this system work as best as it possibly can.

25 CHAIRMAN PERATA: It might be nice one of these  
26 days to just have a little brown bag lunch, invite your people  
27 to sit down and talk to the chaplain and some other people. If  
28 you don't do that, bang it around a little bit.

1 MR. DAVIS: Absolutely. We welcome that  
2 opportunity.

3 CHAIRMAN PERATA: That would be good.  
4 We have a motion. Please call the roll.

5 SECRETARY WEBB: Cedillo. Dutton.

6 SENATOR DUTTON: Aye.

7 SECRETARY WEBB: Dutton Aye. Padilla.

8 SENATOR PADILLA: Aye.

9 SECRETARY WEBB: Padilla Aye. Ashburn.

10 SENATOR ASHBURN: Aye.

11 SECRETARY WEBB: Ashburn Aye. Perata.

12 CHAIRMAN PERATA: Aye.

13 SECRETARY WEBB: Perata Aye. Four to zero.

14 CHAIRMAN PERATA: Congratulations. You'll be up  
15 Tuesday. If you want to spend the weekend here and come back.

16 MR. DAVIS: I think my wife would prefer me going  
17 home.

18 CHAIRMAN PERATA: And thanks, everybody who  
19 endured with two hours. We appreciate it very much.

20 [Thereupon this portion of the  
21 Senate Rules Committee hearing  
22 was terminated at approximately  
23 11:40 A.M.]

24 --ooOoo--  
25  
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27  
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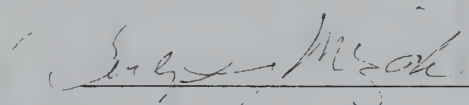
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of February, 2007.

  
EVELYN J. MIZAK  
Shorthand Reporter

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## APPENDIX





**APPOINTEE**

**JAMES R. DAVIS**

Commissioner, Board of Parole Hearings

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective February 14, 2006

Consultant (law enforcement, public safety and security) 2005—2006

El Cajon Police Department

Chief of Police 2000—2004

Captain, Operations and Support Bureaus 1992—2000

Commander, Special Investigations and S.W.A.T. Div. 1989—1992

Patrol Watch Commander/Lieutenant 1986—1989

Sergeant, Investigations Division 1982—1986

Patrol Sergeant 1979—1982

Parole Officer 1974—1979

Bachelor of Science, Organizational Management,

Christian Heritage College, San Diego

***DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS***

<b>1. POSITION BACKGROUND .....</b>	<b>2</b>
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**POSITION BACKGROUND**

The Board of Parole Hearings (BPH) is responsible for protecting the public safety and determining the suitability for parole of certain felons sentenced to prison. The board's duties include:

- Considering the offender's suitability for parole and determining the length and conditions of parole.
- Exercising jurisdiction over inmates serving life terms under the Indeterminate Sentence Law, state prisoners serving specified terms of less than life, and those sentenced to life with the possibility of parole.
- Suspending or revoking parole of inmates who violated terms of their release, and rescinding or postponing parole dates.
- Conducting certification, placement, and parole revocation hearings for mentally disordered offenders, and conducting probable cause hearings for inmates or parolees in revoked status who meet the criteria for classification as sexually violent predators.
- Investigating and making recommendations for reprieves, pardons, and commutations of sentence to the governor, at the governor's request.

The board is comprised of 17 members appointed by the governor and subject to confirmation by Senate. Twelve consider adult matters and five hear juvenile cases. As of January 1, the juvenile side is under the jurisdiction of the Division of Juvenile Justice, pursuant to the July 2005 reorganization of Department of Corrections and Rehabilitation. There are three board vacancies, one on the adult side and two on the juvenile side. Commissioners are paid \$108,167 annually.

BPH adult side members conduct hearings to determine parole suitability for "lifers," inmates sentenced to indeterminate life sentences. Parole Board members are not involved in parole revocation hearings which are conducted by civil servants in the BPH known as deputy commissioners, who hear cases of parolees accused of violating the conditions of parole.

An inmate with an indeterminate life sentence receives an initial hearing 12-13 months before the inmate's minimum eligible parole date. Subsequent hearings occur between one and five-year intervals for murder convictions and between one and two-year intervals for non-murder convictions.

Lifer hearings are now conducted by one board member and one deputy commissioner. Hearings are not open to the public. Only the inmate, district attorney, victim or victim's next of kin, and inmate attorney typically attend. Occasionally press are allowed to attend cases that have received much publicity. Legislative staff observe occasionally.

At a hearing the commissioner and deputy make a determination of suitability. The full board makes the final determination on split decisions. If there is a finding of suitability in a murder conviction, the governor must review the decision and may reverse it. If there is a finding of suitability and the conviction is for a crime other than murder, the governor reviews the decision, but if he disagrees he can only refer the case back to the full board for review, typically citing specific reasons for his referral. The full board may at that point reaffirm their original grant of parole or vacate the decision and schedule a new (rescission) hearing for a two-person panel to consider the issues raised by the governor.

### **SUITABILITY DECISIONS**

In 2006 the board with an increased number of members due to the reorganization scheduled 6,952 hearings for indeterminate life term inmates. This compares with 4,953 in 2005 and 4,552 in 2004. After the governor's review required by law, 57 inmates were released in 2005, seven of whom were court ordered releases. In 2006, 53 inmates were released and nine more had court ordered releases.



<b>LIFE PRISONER HEARINGS</b> <i>According to data provided by the Board of Parole Hearings</i>						
	2006	%	2005	%	2004	%
Scheduled (parole suitability hearings)	6,952		4,953		4,552	
Parole grants	240	3%	161	3%	214	5%
Parole denials	4,415	64%	3,117	63%	2,620	58%
Stipulations of unsuitability*	1,027	23%	716	23%	549	21%
Hearings postponed	2,235	32%	1,630	33%	1,682	37%
* BPH includes stipulations in its parole denials total.						

Both last year and the year before, board members approved grants of parole to 3% of lifers who came before them. Postponements were similar for both years (33% and 32%) and stipulations the same at 23%.

<b>Governor's Actions</b>	<b>2006</b>
Reviewed	206
Reversed	143
Modified	2
Approved	23
Returned for reconsideration	38

### STIPULATIONS

A stipulation is used when an inmate voluntarily agrees to postpone his/her hearing on grounds of unsuitability for parole. By declaring himself unsuitable, an inmate takes himself out of consideration for one to five years because he believes he is not ready to be reviewed, or the board believes, usually due to a recent serious disciplinary action, that he is not ready. In 2006 there were 1,027 such stipulated cases, compared with 716 in 2005, an increase of 30%. When compiling statistics, BPH counts stipulations as denials.

### MULTIYEAR DENIALS

Some inmate advocates have said that the issuance of multiyear denials for prisoners who had received only one-year denials in the past has been used by the board as a sub rosa tactic to draw down the backlog. Board officials have denied the assertion. Some commissioners say they issue multiyear



rejections because it is clear that some inmates cannot reasonably make themselves ready for parole in only one year.

The year-to-year change in multiyear denials of paroles was significant. The total included:

<b>Denials</b>	<b>2004</b>	<b>%</b>	<b>2005</b>	<b>%</b>	<b>2006</b>	<b>%</b>
One year	1,109	42%	1,179	38%	1,367	31%
Two years	861	33%	961	31%	1,449	33%
Three years	352	13%	488	15%	733	17%
Four years	222	9%	277	9%	501	11%
Five years	76	3%	212	7%	365	8%
Total	2,620	100%	3,117	100%	4,415	100%

### **Suitability Decisions**

- 1. What is your criteria for issuing multiple-year denials, especially in cases where the inmate received a denial of only one year at his/her last suitability hearing and has continued to program successfully in the interim?**
- 2. Should there be written criteria to assist you in evaluating the appropriate length of parole denial?**
- 3. In examining the suitability of an inmate for parole, which factors do you give the greatest weight in reaching your decision?**
- 4. How do you assess the quality of programming the individual has received?**
- 5. To what extent are you familiar with the availability of self-help programs (such as alcohol and drug addiction) at the institutions where the parole applicant is incarcerated?**

\* \* \* \* \*

**RUTHERFORD CASE/HEARING BACKLOG**

In what is known as the *Rutherford* case, the judge, acting on a class action case that had been in litigation since 2004, ruled that the board was violating the law by failing to hold timely lifer hearings. By law inmates are entitled to have their suitability for parole considered at regularly scheduled hearings, but hearings are backlogged. The backlog consists of an accumulation of cases over several years that were supposed to be heard at regular intervals but were not. Therefore, a one-year denial can turn into a denial for a longer time period because BPH doesn't schedule the hearing at the one-year interval. The board responds that progress is being made at eliminating the surplus, chiefly because in recent months the board has been operating at near full strength. The court ordered that a plan of correction be filed. Acting on the case brought by the Prison Law Office, the judge ordered that the California Department of Corrections and Rehabilitation:

- Develop by September 2006 a policy to eliminate the backlog and ensure timely hearings in the future.
- Develop by May 2007 a statewide networked scheduling and tracking system for lifer hearings. Currently there is no centralized system. The administration recently asked for a delay until January 2008.
- Not issue multiyear denials to inmates who have formerly received one-year denials without significant change in circumstances clearly stated on the record. This provision was appealed by BPH and has been stayed.
- Not improperly encourage inmates to waive or postpone hearings or to stipulate to unsuitability.
- Ensure by May 2007 that board packets (material extracted from inmates central file used by board in its lifer hearings) are provided to inmates and their attorneys at least 60 days prior to scheduled lifer hearing.
- Ensure by May 2007 that attorneys are appointed to represent inmates at least 120 days prior to their lifer hearings.

**Hearing Backlog**

1. You have a difficult hearing schedule and cases have been backlogged for years. Do you have any suggestions that would improve your schedule but still address the backlog?
2. In 2006 there were about 7,000 hearings scheduled but over 2,200 postponements. How can this record be improved? Some factors are out of your control but what should the BPH be doing to lower the number of postponed hearings?
3. How can BPH and staff at each institution better coordinate their roles to avoid postponed hearings?
4. It has been suggested that the increased use of multiyear denials is being used as a tool to make the backlog appear to be decreasing. What is your view?

\* \* \* \* \*

**TRAINING**

Title 15 of the California Code of Regulations governs the consideration of individuals for parole. When the courts overturn BPH cases, it is typically because the board ignored factors defined in Title 15. Board members are also trained to better understand Battered Woman Syndrome, now known as Intimate Partner Battering. When considering suitability for parole, the board is required to consider information or evidence that an inmate suffered from Intimate Partner Battering at the time of the commitment offense.



**Training**

1. Prior to conducting hearings in the field, how were you trained in the use of Title 15?
2. How are you trained in case law as it pertains to parole hearings in California?
3. What training did you receive regarding Intimate Partner Battering? Do you believe it is sufficient?
4. Who reviews your cases or observes your conduct, especially in the early months of your service, to help you improve your skills and knowledge of processes?

\* \* \* \* \*

**PREPARATION TIME**

Board members are often assigned to a different institution each week. Hearings begin on Monday afternoon and continue through Friday morning. Several years ago the Legislature mandated that the board work on Fridays, which were previously scheduled as travel days, because of the increase in backlogged cases.

Board members receive a packet of information excerpted from the inmate's central file. Inmates incarcerated for 20 or more years frequently have files that take up several 12x14 cardboard boxes, typically the manner in which inmate files are stored. There is no electronic file storage; all files are maintained by hand.

A frequent complaint about hearings through the years is that board members and deputies were not familiar with the file material because they did not receive it until the day they arrived at the institution. At the urging of the Rules Committee, board packets are now sent to board members in advance so they can prepare prior to the hearing date.



**Preparation Time**

1. When do you receive board packets for a typical week of hearings?
2. Do you believe you have sufficient time to prepare?
3. Do you have any suggestions for improving this process?

\* \* \* \* \*

**PSYCHOLOGICAL EVALUATIONS**

Every lifer receives a psychological evaluation from a Department or Corrections psychologist that typically includes an assessment of risk or danger to the community. Often a positive psychological evaluation is the only evidence from a third party (the prison clinician) that an inmate can present to support his/her case for parole. Many mental health experts agree that the current instrument is an inadequate indicator. The shortcoming is compounded by the fact that assessment instruments vary from prison to prison.

BPH is in the process of hiring its own psychologists to conduct more uniform evaluations and employ uniform risk assessments.

The age of the psychological evaluation, or how recently it was conducted, also remains an issue. There is no board policy on how current a psychological evaluation should be.

**Psychological Evaluations**

- 1. How valuable do you consider the inmate's psychological evaluation in reaching a decision on suitability for parole?**
- 2. How current should a psychological evaluation be to be used appropriately at a lifer hearing? How old is too old? What is board policy, or is this decision up to each board member?**

\* \* \* \* \*

**GENERAL QUESTIONS**

**General Questions**

- 1. The governor's reorganization of corrections made the BPH executive officer the administrative head of the board. What are your duties as chair?**
- 2. Please describe your role in the November 2006 full board meeting when the board voted to deny parole to two inmates instead of vacating the original decisions and scheduling new "rescission" hearings as described by Title 15.**

*Prepared by Senate Rules*

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**BOARD OF PAROLE HEARINGS**

<b>Name</b>	<b>Gender</b>	<b>Term Ends</b>
Archie "Joe" Biggers (adult)	M	7-1-08
Sandra Bryson (adult)	F	7-1-07
Paul Chabot (juvenile)	M	7-1-07
Joseph Compton (juvenile)	M	7-1-07
James Davis (adult)	M	7-1-08
Janice Eng (adult)	F	7-1-07
Jack Garner (adult)	M	7-1-08
Philip Inglee (adult)	M	7-1-07
Alvin Kubochi (adult)	M	7-1-07
Edward Martinez (adult)	M	7-1-07
Susan Melanson (juvenile)	F	7-1-08
Cathleen Poncabare (adult)	F	7-1-08
Linda Shelton (adult)	F	7-1-07
Edward Williams (adult)	M	7-1-08
3 Vacancies (1 adult & 2 juvenile)		



## Senate Rules Committee

Management Information Section  
Administrative Services Division

Board of Parole Hearings  
State of California  
Run Date: December 26, 2006

DEC 28 2006

## Appointments

PAROLE CONSIDERATION HEARING INFORMATION  
BY COMMISSIONERS AND MONTH  
FOR YEAR 2006 FROM JANUARY TO NOVEMBER 2006

YEAR^	ID#034	ID#045	ID#046	ID#048	ID#049	ID#050	ID#051	ID#052	ID#053	ID#054	ID#056	ID#057	ID#058	ID#059	ID#060	ID#061	ID#062	ID#063	ID#999
TOTAL	E. Wms	Perez	Fisher	S. Lee	Inglee	Farmer	Sawyer	St. Julie	Garner	Bryson	Biggers	Davis	Shelton	Porter	H. Ritte	Martinez	J. Eng	Melans	CDC*
Jan-Nov																			
Hearings	320	96	361	170	451	258	260	240	618	607	474	483	378	178	208	181	43	38	150
Grants	19	6	9	4	14	16	18	11	33	34	18	12	13	3	12	6	0	0	0
Deny	246	86	307	117	382	180	197	191	436	460	375	376	300	155	133	132	32	25	0
1yr	88	32	54	58	139	64	77	51	166	80	129	127	75	41	41	35	7	9	0
2yrs	70	39	103	33	120	52	71	75	151	150	133	120	90	47	40	49	17	10	0
3yrs	42	6	61	11	61	38	40	35	58	74	64	62	72	23	18	24	4	2	0
4yrs	26	5	56	15	42	26	5	24	35	66	33	36	35	27	22	21	2	4	0
5yrs	20	4	33	0	20	35	4	6	26	90	16	31	28	17	12	3	2	0	0
Slips	51	23	112	35	107	42	65	28	80	95	84	73	62	36	35	14	5	6	0
Postpone	54	3	45	43	52	26	44	34	141	109	76	90	64	20	59	39	11	13	150
I/Alt	25	2	28	37	30	11	30	16	74	48	36	52	34	13	27	18	3	5	146
BPT	29	1	17	6	22	15	14	18	67	61	40	38	30	7	32	21	8	8	4
CDC	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

\* ID# 999 - CDC only has approval authority on Postponement cases



PAROLE CONSIDERATION HEARING INFORMATION  
BY COMMISSIONERS AND MONTH  
FOR CALENDAR YEAR 2006

Dec

MONTH	ID#034 E. Wms	ID#049 Inglee	ID#053 Garner	ID#054 Bryson	ID#056 Biggers	ID#057 Davis	ID#058 Shelton	ID#060 H-Ritter	ID#061 Martinez	ID#062 J. Eng	ID#063 Poncabare	ID#999 CDC*
December												
Hearings	48	35	39	46	39	36	40	36	43	41	40	16
Grants	6	1	1	3	0	1	1	1	0	1	0	0
Deny	34	22	19	26	32	30	23	30	31	24	23	0
1yr	12	12	8	5	8	12	7	11	13	5	11	0
2yrs	11	7	8	8	14	9	8	6	6	8	8	0
3yrs	8	3	2	6	5	7	1	8	5	6	1	0
4yrs	2	0	1	2	4	1	3	3	3	4	2	0
5yrs	1	0	0	5	1	1	4	2	4	1	1	0
Stips	10	8	3	4	13	9	7	11	9	4	5	0
Postpone	8	11	19	16	7	5	16	5	11	16	17	16
I/Alt	6	2	5	5	6	2	5	2	6	5	7	15
BPT	2	9	14	11	1	3	11	3	5	11	10	1
CDC	0	0	0	0	0	0	0	0	0	0	0	0

\* ID# 999 - CDC only has approval authority on Postponement cases

PAROLE CONSIDERATION HEARING INFORMATION  
BY TOTAL HEARINGS, GRANTS, DENIALS, STIPS AND POSTPONEMENTS  
FOR CALENDAR YEARS 1998 TO 2006

YEAR	1998	1999	2000	2001	2002	2003	2004	2005	2006
TOTAL HRGS	2,191	1,953	2,179	3,648	4,826	4,499	4,552	4,953	6,952
Grants	27	21	52	84	168	168	214	161	240
Total Denials	2,047	1,827	1,873	3,101	3,746	2,957	2,620	3,117	4,415
1yr	578	548	622	1,073	1,342	1,384	1,109	1,179	1,367
2yrs	737	675	631	967	1,182	869	861	961	1,449
3yrs	426	319	377	579	695	443	352	488	733
4yrs	216	186	194	321	330	177	222	277	501
5yrs	90	99	49	161	197	84	76	212	365
Stips	58	62	246	558	762	776	549	716	1027
Postponements	8	56	241	440	877	1,335	1,682	1,630	2,235



JAN 25 2007

**Statement of Goals**

**Appointments**

1. *What are your goals and objectives as a member of the Board of Parole Hearings? What do you hope to accomplish during your tenure?*

First and foremost is to do everything possible to ensure a fair hearing. As a Commissioner I am the one, along with the Deputy Commissioner (DC), who sits as the independent third party taking in the information from all of the interested parties, observing the inmate and experiencing the elements of the presentations. As such, we are in a good position to make recommendations on what may need to be improved upon or strengthened for the betterment of all concerned. Each hearing is an opportunity, if the inmate is not granted a release, to offer some suggestions for strengthening their future suitability.

Second, is to seek out educational opportunities to help the Board better understand all the issues, points of views and best practices that affect the Board and the decisions made.

Third, is to work with the dedicated men and women of the California Department of Corrections and Rehabilitation (CDCR) to ensure that the Board is working in synchronization to all we can to be sure that our recommendations are compatible with available opportunities.

Fourth, is to help educate the interested parties and the public on the rules, policies and procedures of the Board. In this manner, all stakeholders to the hearing process will be informed regarding Board procedures.

**Training**

2. *Please describe the training and any other assistance you received in preparation for your assignment as a commissioner, including knowledge of the requirements of the Penal Code, Title 15, and case law as they apply to the parole process. Please also detail any additional training or refresher courses you have participated in.*

Upon appointment as Commissioner, I received nearly 104 hours of formal classroom and hearing observation training which covered a variety of hearing topics directly germane to the parole consideration hearing process, as well as administrative procedures and pertinent legal case law citations. Additionally, this training included observation in hearing mentoring with experienced Commissioners and DCs. Further, on an ongoing basis since the initial training, we Commissioners have received routine training updates on a variety of procedural hearing issues, case law updates, and administrative issues.

3. *Did anyone review your cases, particularly in your early months on the job, to help you determine best procedure? Does anyone observe your hearings to assist you?*

I do not know if anyone did such a review. If so, I never received any feed back. I did preface my discussions with the DCs at the hearings that I was new. I had no "ego" as to the process and welcomed their comments and criticism. Most were generous with both. I also received feedback from defense counsel and prosecutors. My experience is that all stakeholders in the life parole consideration process have shown an interest in the Commissioners being as well prepared as possible.

The Executive Officer and I agree that we must find ways to have a more robust decision review system. We are in the process of obtaining the resources necessary to implement such a review process.

### **Self Help, Vocational and Education Programs for inmates**

*Self help and education are typically recommended when an inmate is denied parole. The extent to which an inmate has participated in self help programs is regularly a subject of discussion in the inmate's parole suitability hearing. However, self help, education and vocational training availability varies widely.*

4. *To what extent are you informed of the availability of self help groups and vocational programs at the institution where the parole applicant is incarcerated?*

This is a problem because the availability of vocations and programs is a moving target. Institutional lockdowns, staff retirements, personnel changes etc. have an effect on program availability. Most institutions have a list of currently available vocations and programs but this will not give one a historical prospective of how long the programs have been available and on what yard. The movement, from prison to prison and from yard to yard, as well as disciplinary issues also has an effect. The individual resources of the facility as well as the inmate themselves will also have an effect upon the available options. The Classification & Parole Representatives (C&PR) at the institutions and the Correctional Officers assigned to the hearing are often good resources for information. They can also obtain requested information and/or provide clarification when needed.

5. *If a prisoner requires additional self-help work but such a program is unavailable, what alternatives do you recommend, if any?*

If appropriate for the inmate I will often suggest independent reading and preparing a short report describing what they read, what they learned, how it applies to them and their understanding of the victim's point of view, and how it will help them to not



re-offend. I will also suggest that they seek out lifer groups and talk with others about options. If no such group exists at the institution, I suggest that they talk to their counselor about forming such a group.

If it is an issue of vocations not being available, I will suggest that the inmate try to get a job in the institution that will allow him/her to develop a marketable skill. I suggest that, as they acquire new skills in these positions, they request from their supervisor written documentation (chronos) that identify the instructor's expertise, the skill that the inmate has learned and its applicability on the outside.

Finally, I suggest that the inmate be persistent. I believe persistence is a virtue. I have seen many examples of inmates that are persistent who have been able to get many of the self help and vocational opportunities they wanted.

6. *Have you ever observed any specific self help, vocational, or education program activity at a CDCR institution? If so, which ones?*

I was privileged to tour some of the libraries at Kern Valley State Prison. I was able to speak with some of the librarians and the men assisting them about some of the strengths and weaknesses of the system as regards to programming opportunities. There seemed to be a genuine desire to have more self help books available. Beyond that, I have spoken to Case Records personnel and Correctional officers about the strengths and weaknesses of the programs at their facilities.

### Hearing Preparation

*Some members of your board have a difficult travel schedule and all of you visit different institutions on a weekly basis. Inmate files are not available electronically.*

7. *Please describe when and how you prepare for a hearing, including the average amount of preparation time spent on each case. Precisely when are files made available to you for the following week's hearings?*

Generally, I receive the set of files delivered to my home a week and a half prior to the Monday of the hearing week. Because I am not there, due to the travel involved, the files may stay outside for a day or more. I will customarily review the files on Sunday to ensure that they are for the correct institution, the files match the tentative schedule enclosed, the files contain at least the minimal information necessary and that the information is current. I will then fully prepare the first two Monday cases and, generally, the Tuesday cases as well. The reason for the review of the Tuesday cases at this time is for preparation in the event that hearings run longer than may be expected and could take away from preparation time during the week. Case preparation usually takes approximately 45 minutes to an hour depending on the

complexity of the case and the quality of the board report. Additional preparation takes place in the hearing room when we receive new or updated information.

### **Parole Suitability Hearings**

*Some inmate attorneys complain that their clients are denied parole suitability for two or more years without adequate or proper justification. They say multi-year denials are made even though the inmate has been a model prisoner and programmed excellently since the last hearing when he/she received only a one-year denial.*

8. *What criteria do you use for issuing a one-year denial vs. a multi-year denial? Are there written criteria for the length of denial to guide you? How were you trained regarding this matter?*

The one-year denial is based upon when it is reasonable to believe full suitability could be achieved. The Board has a specific regulation that addresses this area which indicates that for multi-year denials, ample justification must be provided. Additionally, the Board is in the process of developing specific criteria for multi-year denials.

When a one-year denial has been established by a prior panel I do not go above that unless there are unusual circumstances including current discipline or persistent and unexplained failure to act on Board recommendations.

9. *What should the Legislature expect from board members regarding a consistent format for lifer hearings? What should the appropriate emphasis be on the facts of the crime? Are you able to familiarize yourself with the reasons why previous panels denied suitability?*

All stakeholders should expect to have hearings that are substantively consistent, and that follow current case law and Title 15. We are in the process of standardizing our hearing script to help get us to this point.

The life crime is one of many elements to consider. Understanding the crime, and should the inmate choose to speak on the crime, hearing his or her discussion of the crime can give the panel a better understanding of the inmate.

Each Board package contains the decisions of prior hearing panels. Prior to each hearing, complete hearing transcripts are available for review as well as the inmate's central file.



### **Psychological Evaluation**

10. *What is your view of how an inmate's psychological evaluation should be used in a lifer hearing? If it is to be an assessment tool, how current should it be? How old is too old?*

The Psychological Evaluation (PE) should be a strong consistent instrument tool administered by trained and independent professionals. The PE should be one tool, all be it very important, to assist the panel in making an informed decision.

Ideally, one would want the PE to be as current as possible. The more current the report is, the more it will reflect the current status, accomplishments, self help, programming, discipline and so on, of the man or woman being interviewed. There are often specific reasons why defense counsel or the panel may or may not want to use some evaluations. This could include the favorable or unfavorable nature of the report, obvious errors and/or omissions, failure to reach a conclusion as to propensity for future violence and/or recidivism and so on.

Clinical science and best practices inform us that any PE over five (5) years is too old.

11. *When is it appropriate to grant a postponement because a psychological evaluation is not current? Is it your responsibility or the inmate's attorney to request postponement of the hearing?*

As previously stated, the PE is one important element to consider in the hearing. Reasons to postpone may include the previous panel's request for a new evaluation; the PE is more than five years old; is unfavorable to the inmate but is not reflective of gains documented in other areas of the record; contains obvious errors; or counsel for the inmate can articulate appropriate reasons why a new PE is in the best interest of the inmate. Generally, because the postponement will be in the interest of the inmate, the request for postponement should be articulated by counsel for the inmate. Regardless of who initiates the request for postponement, the panel must ultimately concur. If there is a question, I will default to the decision that gives the inmate the best opportunity to present himself or herself in the best possible light.

12. *When are you able to examine a file to know if the psychological evaluation has been conducted? Do you believe the failure to know that the psychological evaluation is not current and available in the file is the cause of hearing postponements?*

The first time I examine the file the presence of the PE and the date of completion are immediately available. However, other issues or errors are not so obvious and may not come to light until just before or even during the hearing. Sometimes the panel will not



be able to determine the availability of the PE until the day of the hearing. Objections as to timely delivery of the PE will also affect the postponement.

### **Hearing Postponements**

*Costly postponements of lifer hearings result from logistical problems at the prison or CDCR's failure to appropriately prepare the information packet available to board members.*

13. *How might problems and unnecessary postponements be reduced? How might adult custody personnel and the board better coordinate activities? Who do you believe is ultimately responsible?*

Because of the nature of what we do I believe there will always be a few postponements. Better communication between the Board and those responsible for the preparation of board reports could reduce the number of postponements. Additionally, a better understanding by institution staff of the Board's hearing documentation needs, as well as a thorough advance review of the hearing packets, would allow for substitution of a fully prepared report for one with noted deficiencies, and would greatly reduce the need to postpone hearings.

### **Role of the BPH Chair**

14. *Please describe your role as Chair of the Board of Parole Hearings.*

As the Chair of the BPH, I have the following responsibilities:

- Chairs board proceedings developing, interpreting and implementing laws, regulations, rules, and procedures governing life inmates;
- Presides over formal board proceedings, both in open meeting and closed sessions;
- Training and development of new Commissioners;
- Consults with Governor's office on emerging life hearing litigation issues;
- Conducts life parole consideration and other adult offender hearings;
- Meets routinely with Secretary of CDCR along with the Executive Officer to discuss issues of common interest as related to the functions of the Board;
- Meets with Wardens and institutional Executive Staff to discuss on-site case preparation and processing issues;
- Represents Board at meetings and forums focusing on life hearing matters with various stakeholder groups;
- Review Commissioner assignments and hearing schedules.

I would be remiss if I did not add my goals as the Chair of the Board as well as what I hope to accomplish.

I will standardize and enhance the education and training for all new Commissioners. Commissioners come from a variety of backgrounds; are appointed as needed and not on a set schedule. Commissioners no longer have the benefit of serving on three person panels where they might benefit from the guidance and mentoring of a more experienced Commissioner. Currently, education and training of the Commissioners are dependent upon the availability of staff who, while experts in their fields may not be expert in the issues of adult learning.

We are currently working on a program to make the bulk of the education and training computer-based to be augmented by training by the area experts so to answer questions and check for the ability of the student to apply what they have learned. The same individual who developed the bulk of the recently completed Deputy Commissioners' Academy is also working on the automated Commissioner training.

Additional education and training is also needed for the DCs. My experience is that the DCs are dedicated men and women who want to be as well prepared as possible in order to fulfill their responsibilities in a fair and equitable manner. We have been working to identify what information is needed; the best way to get that information out to those who need it; and then gauge the effectiveness of our delivery. In short, we want to have a system that no matter where one is in the state one can expect to experience a process that is consistent throughout the state.

I will establish an atmosphere of open communication for all our stakeholders. I believe that we all want to live in a state that is as safe and crime free as we can make it. To do that, we must be sure that our part of the system works as smoothly, efficiently and fairly as possible. That takes soliciting information from all the people involved in the process, being responsive to those individuals who have taken the time to give us information and for all those in leadership to cooperate, respectfully disagree when necessary, but to always look for opportunities to improve. We should be more proactive and less reactive. We should be looking to the future for opportunities and obstacles and be ready with contingencies for both.

I will work for a redistribution of resources to ensure that BPH has the appropriate staff to do the case review that is necessary as a check of our education and training and to ensure that our hearings are being conducted appropriately.

15. *Specifically, what is your responsibility as Chair of the monthly full board meetings when the board goes into closed session to reconsider, at the Governor's request, parole suitability granted to "lifers?" Please describe your role as Chair of the November, 2006 board meeting where the cases of inmates Nathan Ellis and Mary Shields were considered. Why did the board vote to deny parole to these two inmates instead of vacating the decisions of the original two panels and scheduling new hearing, known as rescission hearings, as required by CCR Title 15, Div. 2, Section 2044?*

The role of the Chair in the closed session portion of the En Banc hearings is to ensure that every Commissioner has the opportunity to have all the information needed before making a decision, to limit the discussion to only those items that have been properly posted, to encourage free and open discussion and to ensure that, prior to any vote being taken, all views have been fully aired.

In our November meeting, there was a motion made and a second to deny parole for Nathan Ellis. The motion should have been to order a Rescission Hearing. I did not notice the error until after the closed session was complete and the results were posted on the internet. Immediately upon notice of the procedural error, the record and the internet posting were corrected. It was my responsibility to have noticed the procedural error and I did not.

The Executive Officer and I immediately revised the process and the vote sheets to prevent this from occurring in the future.



**BOARD OF PAROLE HEARINGS**

P.O. BOX 4036

SACRAMENTO, CA 95812-4036

January 30, 2007

**Senate Rules Committee**

JAN 30 2007

The Honorable Senator Don Perata  
Chairman  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814

**Appointments**

Dear Senator Perata:

I am scheduled to appear before the Senate Rules Committee on January 31, 2007. Based on the nature of one of the questions submitted to me and second-hand information, I am aware that you are very concerned with procedural errors that occurred during the closed session portion of the En Banc meeting of the Board of Parole Hearings (Board) on November 20, 2006.

My response to the question as posed in the Senate Rules questionnaire stands, but I understand that there may still be some question or concern. First, let me assure you the error did not occur because of a lack of concern for the importance of that decision. Every Commissioner in that room as well as staff counsel was and is keenly aware of the awesome responsibility of each decision we make and the number of lives our decisions touch.

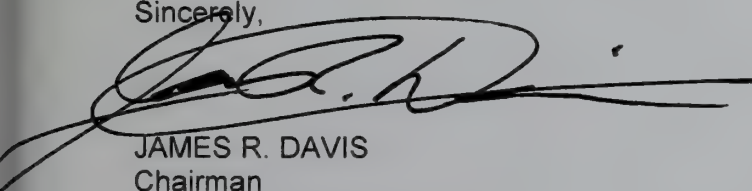
The Ellis and Shields matters were considered by the Board individually and after discussion and deliberations, both cases were decided by a unanimous vote of the Board. The Board's decision was that neither case should have the grant affirmed.

In each case, the motion was to deny parole and to send the matter back for a new parole hearing. However, in the instant cases, the appropriate procedure would have been to send the cases to a rescission hearing. No one, including legal counsel, caught the error before the results were posted.

Within hours, several of us recognized the error and immediately made the appropriate corrections to the records. The Executive Officer and I took immediate steps to approve procedural safeguards that will preclude this kind of procedural error from happening in the future.

I hope this information was of some assistance. I remain available to speak with you personally at any time at (916) 267-0855.

Sincerely,



JAMES R. DAVIS  
Chairman  
Board of Parole Hearings







**556-R**

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STATE OF CALIFORNIA



STATE CAPITOL  
ROOM 113  
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 14, 2007  
1:35 P.M.





1 SENATE RULES COMMITTEE

2 STATE OF CALIFORNIA

3  
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6 HEARING

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8  
9  
10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, FEBRUARY 14, 2007

16 1:35 P.M.

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23  
24 Reported by:

25  
26 Evelyn J. Mizak  
27 Shorthand Reporter  
28



APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

LYNN L. JACOBS, Director  
Department of Housing and Community Development

CHRISTINE MINNEHAN  
Western Center on Law & Poverty

ROB WIENER  
California Coalition for Rural Housing

DeANN BAKER  
California State Association of Counties

KIMBERLEY DELLINGER  
California Building Industry Association

BRIAN AUGUSTA  
California Rural Legal Assistance Foundation

THERESA PARKER  
California Housing Finance Agency





1 STEVE WALLAUCH  
Ventura County Board of Supervisors

2 DAVID K. MILTON  
3 California Association of Realtors

4 BILL HIGGINS  
5 League of California Cities

6 CHAD G. CHARTON, Member  
7 Student Aid Commission

8 DENNIS J. GALLIGANI, Ph.D., Member  
9 Student Aid Commission



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Statements by Appointees Not Required to  
Appear: CARY A. NOSLER, Member, Acupuncture  
Board; CLEOTHA ADAMS, Member, Corrections  
Standards Authority; and ERIC K. KAWAMURA,  
Member, Housing Partnership Corporation Board





--ooOoo--

CHAIRMAN PERATA: We have three of the Governor's appointees appearing here today, leading off with Lynn Jacobs.

Welcome.

MS. JACOBS: Thank you, Mr. Chairman, Members of the Committee. I'm delighted to be here today as the designee for Director of the Department of Housing and Community Development.

I thought I'd tell you a little bit about myself. I'm a native Californian, born in Los Angeles, grew up going to L.A. public schools.

My career consists of being first a banker, which sort of sobered me up to learn about housing.

CHAIRMAN PERATA: You majored in Romance Languages and you went into banking.

[Laughter.]

MS. JACOBS: That's right. I had to change my resume to put "Romance" in there some way for Valentine's Day.

[Laughter.]

MS. JACOBS: After being in banking, I got into building affordable housing for first-time buyers. My first project was a project exclusively for farmworkers in the Santa Paula area in Ventura County. And my building experience has been in Ventura and Santa Barbara Counties exclusively, doing ownership housing for first-time buyers.

At the same time, I served as a Planning

1 Commissioner in the City of Ventura for nine years, also as  
2 President of the American Cancer Society, and most recently as  
3 the Chair of the Workforce Investment Board for Ventura County,  
4 as well as President of the Building Industry Association of  
5 southern California.

6 You can tell I have a problem saying no to  
7 volunteer opportunities.

8 I'm delighted to have with me today my family, so  
9 I'd like to introduce my husband, Gary, and my son, Matthew, if  
10 they'd stand up.

11 CHAIRMAN PERATA: Welcome.

12 What would you like us to do, Lynn?

13 [Laughter.]

14 MS. JACOBS: I think you've done enough, Senator,  
15 for me to get to see my husband on Valentine's Day. I know  
16 that's why you moved the hearing, so I appreciate that.

17 CHAIRMAN PERATA: I'm quite thoughtful that way.

18 MS. JACOBS: As the new Director of the  
19 Department of Housing and Community Development, I am committed  
20 to increasing the supply of housing for all Californians of all  
21 income levels. I see that as one of the biggest challenges we  
22 have in California today. We have a structural deficit in  
23 housing. That's just one area of the infrastructure that we  
24 have a deficit in.

25 I'm committed to working on a permanent source of  
26 funding for affordable housing so that we're not always going  
27 back to the voters to get funds for housing.

28 And I'm also very, very committed to making sure

1 that we spend both the bond money and all of our other program  
2 money for the best benefit of all Californians and California  
3 businesses in the case of our economic development funds.

4 That's a brief opening statement.

5 CHAIRMAN PERATA: Great.

6 You've got a wonderful background, and an even  
7 better reputation. I don't think it's any secret that you're  
8 taking over an agency that's been a little troubled in the minds  
9 of some or many.

10 So really, the line of questioning today from me  
11 is going to be about the Department, and the thoughts that you  
12 have.

13 I believe you know that, although four of us were  
14 here for the bond votes, that two of us have spent a great  
15 amount of time on this particular one, 1C, housing. And we  
16 really saw it as the only way we were going to get a housing  
17 bond off the Floor and to the Governor was with strong  
18 bipartisan support. And Senator Dutton played a great role in  
19 that, and I know that there are some issues here that he  
20 probably would like to touch on.

21 For opening, we have the transit-oriented  
22 development fund of \$300 million.

23 MS. JACOBS: Yes.

24 CHAIRMAN PERATA: I believe that you were going  
25 to use a working group strategy to come up with proposed  
26 guidelines. Could you tell us where we are on that, if  
27 anywhere?

28 MS. JACOBS: Yes, Senator. We have quite an

1 ambitious schedule of getting out throughout the state to meet  
2 with stakeholders as far as transit-oriented development is  
3 concerned.

4 And transit-oriented development is a very  
5 special program where we have more stakeholders than we usually  
6 do in a housing program, because we want to talk to not only  
7 housing providers, and local government agencies, but transit  
8 organizations and their support companies.

9 So, we have had -- our first large stakeholder  
10 meeting was with the Los Angeles Housing Department. We had  
11 over 100 attendees at that stakeholder meeting.

12 I have done two more with groups that were put  
13 together ULI, the Urban Land Institute, and we have a schedule  
14 that we can pass out of our --

15 CHAIRMAN PERATA: Give me the last date on the  
16 schedule.

17 MS. JACOBS: I think it's the end of March.

18 CHAIRMAN PERATA: That's not bad. That's fine.

19 MS. JACOBS: Yes.

20 We have quite -- we are starting -- we have them  
21 in Rancho Cordova, Oakland, San Diego, Los Angeles, Riverside,  
22 and Modesto. The last one is March 20th. So, those are our  
23 stakeholder meetings.

24 We continue, of course, to meet with our sister  
25 agencies, such as CalTrans and the California Transportation  
26 Commission to talk about --

27 CHAIRMAN PERATA: That's gently put.

28 MS. JACOBS: Yes.



1 CHAIRMAN PERATA: Your sister agency, CalTrans.

2 MS. JACOBS: Yes. I could say brother agencies,  
3 but I'm saying sister agencies.

4 When you were so kind as to put the bonds on the  
5 ballot, the next day I went to Will Kempton, the Director of  
6 CalTrans, to say that we needed to work together on both our  
7 bonds to make sure that the funds could be used together and  
8 then leveraged with the wider private and public community,  
9 because what I feared, being the new person on the block, is  
10 that we would put the word the "may" in the wrong place, where  
11 we should put "shall," and then all of a sudden, we would have  
12 left out CalTrans.

13 So, we are attending their bond meetings; they  
14 are attending our meetings. And they are also serving as  
15 experts on transportation technical terms.

16 CHAIRMAN PERATA: You must have majored in the  
17 period of the Enlightenment in Romance Languages.  
18 Congratulations. That's well done.

19 [Laughter.]

20 MS. JACOBS: That's when all the good books were  
21 written, yes.

22 CHAIRMAN PERATA: Let me ask you about, we have  
23 the TOD, and then there was the infill incentive portion, which  
24 really you'll find my thumb prints all over.

25 How do you differentiate those two? I know we're  
26 still planning to figure out how to reg or rig the infill.

27 MS. JACOBS: Absolutely.

28 CHAIRMAN PERATA: How do you see that?

1 MS. JACOBS: Well, the transit-oriented  
2 development specifically is for housing within a quarter-mile of  
3 a transit station. And a transit station is either light rail  
4 or high-use bus lines. And there is an exact term for it, and I  
5 think the bus has to come either every ten or fifteen minutes  
6 during rush hour to make it a high-use bus line.

7 The way I see the infill incentive program is for  
8 all types of infrastructure. As I go around and talk to various  
9 cities and counties, and go to lots of conferences -- since I'm  
10 the new person, they all want me to come speak -- what I hear  
11 from them is that they want to do infill housing in their  
12 downtowns that were developed in the 1870s, early 1900s, and  
13 their residents support that kind of infill development because  
14 they think the infrastructure's there because they see the  
15 street and the sidewalk.

16 They don't know under that street and sidewalk,  
17 in the case of some cities, there might be wooden sewers. In  
18 some cities there are brick sewers. And in some cities there is  
19 no sewer connection.

20 So, water and sewer systems for infill  
21 developments seem to be a major problem throughout the state,  
22 whether it's a large city or a rural area.

23 So, we see funding those kinds of systems, as  
24 well as brownfield remediation, and traffic systems such as  
25 street lights, traffic lights, various traffic mitigations  
26 besides -- in addition to roads as getting us a lot of bang for  
27 the buck, and allowing a lot of housing to be built.

28 So, what we're proposing is getting that money to

1 the to cities, and counties, and jurisdictions, and special  
2 districts that are ready to use it, that have either a capital  
3 improvement plan, are participating in a blueprint plan, have  
4 already planned for the improvement, they just don't have the  
5 money to do the improvement. We would like to, in order to  
6 encourage housing, because this is, after all, the Housing Bond,  
7 and we want to see housing built as a result of everything that  
8 we do with the bond, we would propose making these funds -- this  
9 is a new government term for me -- recoverable grants. So, for  
10 five years, we would give the funds to the city to put in the  
11 infrastructure, but at the end of five years, they would have to  
12 produce a certain number of building permits. And if they did  
13 not produce the housing building permits, then this recoverable  
14 grant would get recovered.

15 We, of course, would have a policy for extensions  
16 if there are extenuating circumstances, but we think putting in  
17 a sewer, perhaps, in a block in a downtown does not generate one  
18 housing project. It allows more than one housing project to be  
19 built. So, we see kind of a multiplier effect on the number of  
20 housing units that can be built with this money.

21 CHAIRMAN PERATA: That we put the money out there  
22 quickly is an imperative, because I don't think the voters  
23 necessarily expressed confidence in us. It was more like an act  
24 of faith. And it would be nice to see some product coming from  
25 that so that their faith could be validated.

26 But what I'm concerned, from my own perception,  
27 is that, you know, there are far too many obstacles that end up  
28 being put on the selling price of a house or of a unit.

1           The one thing I found out repeatedly where ever I  
2   went the last two years in the state is that in condominium  
3   development, which is really what you're probably looking at if  
4   we're going to go vertical, that you've got \$25,000 a door for  
5   wrap around construction defect issues, \$50,000 for ensuing law  
6   suits of any manner and kind. So, you're out 75,000 before  
7   you've done anything, you've pulled a permit. Even  
8   lot-and-block, where they're now up to 100,000-110,000 in fees  
9   before they put up a stick.

10           So one of the things that we have to do is, how  
11   much protection, or how much whatever it is are we going to  
12   demand? This comes with brownfields. Do we clean things to  
13   what standard? Garden of Eden, or something that came a little  
14   bit later than that?

15           The only thing I would urge you to do is to push  
16   down hard on things, like, there's more discussion these days  
17   about regional blueprints.

18           I'm real skeptical of all this stuff, because  
19   I've been around so long there ain't a new idea under the sun.  
20   And I've seen so many freaking things that have been talked  
21   about, and lots of people who are making public money end up  
22   doing nothing, but they all feel like they've made a  
23   contribution in doing nothing. And I participated in that, so  
24   I'm guilty.

25           But it seems to me that if we're going to look at  
26   infill development, we ought to, at a minimum, look at  
27   conformance to the housing element, transportation element, to  
28   the general plan, to the zoning, and then slap an EIR on top of



1 that so that you have an EIR where a developer who comes in will  
2 know what the mitigation needs are, and we don't get into this,  
3 you know, where people get up in the trees with their 30-30s and  
4 start shooting at these projects.

5 Generally speaking, everybody likes infill and  
6 density somewhere else. So, you're going to have crack eggs to  
7 make the omelet.

8 I think what I'm looking for, and you've got the  
9 reputation so that's why I'm saying it to you. Some people have  
10 jobs that the Governor's put here that I didn't think could hit  
11 the pitching. I think you can. And I think you're the right  
12 person for the right time.

13 But we're going to have to talk about those kinds  
14 of things, that cities are going to have feel like home rule is  
15 not sovereignty. They're not tribes. That a charter of a city  
16 is not to be confused with the U.S. Constitution, Bill of  
17 Rights.

18 So, I think the incentive is good. But I would  
19 encourage you to have in mind, and you've been a developer so  
20 you know, have in mind what a fast-track would look like. If  
21 we're going to get some benefits, we're going to have to do some  
22 things. Because ultimately, what I would hope is that if we can  
23 figure out some kind of rubric that works for infill, we could  
24 use it for other developments in other places. It just takes  
25 too long. It's too silly. You've got too many people with no  
26 dogs in the Westminster. We've got to do better about this.

27 And the other thing that I'm mindful of is that  
28 in places like San Diego, they have done a pretty smart thing,

1 in that they've merged their housing and transportation.  
2 have a single SANDAG.

3 In the Bay Area, we have 28 transit districts  
4 alone, 28 in 9 counties, 2 of which are elected. There are only  
5 3 in the country that are elected. I've lived there all my  
6 life. We're not that smart. There's something wrong.

7 But I think that commentary on your part, as a  
8 professional and as the leader of a very important department,  
9 would be welcome. Maybe not by everybody, and probably not by a  
10 lot of people whose oxen are going to get gored. But I think  
11 that, you know, your protector is the Governor. And I know he's  
12 consistent with most of this thinking.

13 I also think that there is so much already known  
14 in the experience of people such as yourselves that we don't  
15 need a lot of bureaucrats telling us how to do it. You're in a  
16 great position, because you've got the resume.

17 So on the infill stuff, this is something that I  
18 intend to work closely with you.

19 MS. JACOBS: Wonderful.

20 CHAIRMAN PERATA: Obviously, I've got a few fixed  
21 positions and thoughts in my mind.

22 I also don't believe that it's unique to the Bay  
23 Area or L.A. There are a lot of aging community where lands  
24 should be recycled.

25 And I would also just add job-orientation, the  
26 orientation of the property to the job center is as critical as  
27 anything else.

28 MS. JACOBS: Absolutely.

1 CHAIRMAN PERATA: And the way we measure that.

2 On the Affordable House Innovation Fund, there's  
3 \$100 million in that. I know that's something, Bob, that you've  
4 been looking at. Maybe you'll want to talk about that a little  
5 bit.

6 SENATOR DUTTON: Thank you, Mr. President.

7 Yes, I've had an opportunity to talk to Lynn. We  
8 actually started having committee hearings yesterday, and we  
9 started exploring various options, as well as talking about the  
10 infill development portion, too.

11 As I explained to Lynn, my desire, and the reason  
12 why I was willing to get involved to try to help with the  
13 development of a housing bond program is because I'm a strong  
14 believer that in order to truly help people climb that economic  
15 ladder, to truly try to help young people get their start in  
16 life, and also to benefit California, we must create a variety  
17 of types of home ownership opportunities.

18 The affordable housing issue is only a portion of  
19 it. It's actually, we should be asking ourselves, too, how do  
20 we make housing more affordable, as opposed to affordable  
21 housing.

22 But I'm also interested in making sure that we  
23 provide opportunities for people to be able to climb that  
24 economic ladder. So, when we were starting to look at it, we  
25 took the approach that all roads should lead to home ownership.

26 Not to cut out anything, because you do need to  
27 provide people with assistance, but we also need to make sure  
28 that we provide them programs and so forth to ultimately be able

1 to share in their piece of the American Dream, and that's to own  
2 a home.

3 On the Innovation Fund, what the idea is behind  
4 that was, is to try to turn it loose, and to get the people in  
5 the State of California to come forth with new and innovative  
6 ideas that would help achieve some type of ownership.

7 Now, you heard a lot of thoughts and ideas  
8 yesterday. Would you care to elaborate a little bit more on  
9 some of the things that we heard yesterday? And share with me  
10 your thoughts on which ones you kind of liked, which ones you  
11 thought might have merit and we ought to explore.

12 MS. JACOBS: I would be delighted to.

13 First, of course, I have to talk about the ones  
14 that we're proposing from the administration. And Senator  
15 Perata brought up the first one, which construction liability  
16 insurance, which is an extremely high cost for attached  
17 ownership housing. What I hear is \$40-50,000 dollars a unit,  
18 and that seems to be the current industry cost of construction  
19 liability insurance.

20 One of things that we are proposing for the  
21 Innovation Fund is funding what they call in that industry "best  
22 practices." And best practices mean that you video tape your  
23 construction. You have a third party quality control inspector,  
24 different from are your city and bank inspectors. And you do  
25 enhanced manuals and enhanced customer service.

26 This brings down the cost of construction  
27 liability insurance 30 percent. So, we thought if we did this  
28 as a pilot project, we were thinking of doing it on projects



1 funded by either our other sister agency, Cal FHA, and ones that  
2 we fund for attached ownership. And we got this as a much more  
3 common use in the building industry. And if it's being used on  
4 affordable ownership housing, we would, number one, bring down  
5 the cost of doing best practices by funding it; we would bring  
6 more insurers into the state, and we'd bring the cost of  
7 insurance down by limiting the liability. So, that's one  
8 proposal we had.

9 Another proposal we had is what we call our  
10 Environmentally Sustainable Fund, where we would fund as a pilot  
11 program on our projects green building, energy efficiency, and  
12 universal design. Now, we were looking -- we hadn't restricted  
13 it to home ownership. We were looking at rental and home  
14 ownership, but we could do it just for home ownership programs  
15 that we fund.

16 On our projects that we finance or grant money  
17 to, one of the important criteria, and one of my personal  
18 favorites, is looking at the cost of the project. So, in fact  
19 we penalize our builders who want to do green building and  
20 energy efficiency because it costs more. So then they don't  
21 compete as well in our point system as the developers who are  
22 not using those.

23 So, we thought if we funded those separately,  
24 that we could get those arts of green building, and energy  
25 efficiency, and universal design used in our projects, and that  
26 that would again have a positive effect on the building industry  
27 as a whole, showing its use, and getting it to be more common  
28 both from the point of view of the designers and the architects,

1 as well as the builders.

2 Our third program that we're proposing is to help  
3 develop housing for teachers and school district employees,  
4 reusing school land. Whether it is excess land of a school  
5 district, or reconfiguring a school to have housing on that  
6 school, what we want to do is develop a process with the  
7 Department of Education, with the State Architect, with the  
8 local jurisdictions, so that we can actually approve this kind  
9 of housing, and still have the local districts maintain  
10 ownership of the land. There could be ownership of the housing  
11 in terms of air rights, which is getting to be more and more  
12 common in California with the cost of our land. So, that's our  
13 third proposal that we have.

14 Of the proposals that we heard about yesterday in  
15 addition to ours, we heard a very interesting proposal about gap  
16 financing. That sounded very interesting. We'd like to take a  
17 look at that. That sounded like a good program.

18 I think that once we get more than four or five  
19 programs with this money, it's going to be a challenge to  
20 administer. So, we think if we end up on the \$100 million with  
21 four or five programs to look at, that that probably would be  
22 the most cost effective.

23 SENATOR DUTTON: Do you have any thoughts about  
24 what we can do?

25 In a lot of programs that we have to provide  
26 housing, you know, low-income housing, affordable housing, in  
27 those areas, one of the things that always kind of bothered me,  
28 it seemed like we went ahead and put the roof over their head,

1 like a single mom or somebody like that, who's actually got a  
2 couple small kids and so forth. It doesn't seem like we just  
3 put a roof over her head, and that's as far as we go. There's  
4 nothing about child care. There's nothing to try to help skill  
5 development so they can go get a better paying job and  
6 ultimately get into some type of a stable environment, with home  
7 ownership opportunities, and therefore enable them to start  
8 creating personal wealth.

9 Do you have any thoughts in the programs that we  
10 currently have available that we could modify, or existing  
11 programs that frankly maybe are working that we need to actually  
12 invest more into?

13 MS. JACOBS: Absolutely.

14 First of all, many of our housing projects do  
15 have service facilities attached to them, whether they are day  
16 care or supportive services for the residents.

17 We need to do a better job of working with our,  
18 again, sister departments, but definitely with the Department of  
19 Labor.

20 As a former Workforce Investment Board Chair, I'm  
21 a great believer in integrating housing with job training. I  
22 think it's a natural. I think there's a very strong willingness  
23 for our construction unions to participate in that. We did that  
24 in Ventura County. I see a lot of opportunities for job  
25 training associated our housing, and that's something that I'm  
26 very excited about taking on. And I know that Secretary  
27 Bradshaw's interested in the subject.

28 So, I think we need to work better among all the

1 state departments to integrate the services, and that's  
2 something that I'm committed to do.

3 SENATOR DUTTON: Just to wrap up, as Senator  
4 Perata indicated, time is kind of a money issue. You appreciate  
5 that, being in the business that you were in.

6 MS. JACOBS: Absolutely.

7 SENATOR DUTTON: So, it also seems like anything  
8 we can do to help speed up the process, especially when we do  
9 have willing partners that are willing to go in and actually  
10 take advantage of programs, or help leverage their dollars with  
11 our dollars, it's really important that we not get them trapped  
12 in a maze of red tape. So, anything you can do to help improve  
13 the efficiency would be deeply appreciated, as you can certainly  
14 appreciate yourself.

15 I was real comfortable. I think she has the  
16 right stuff.

17 CHAIRMAN PERATA: On the teachers, you mentioned  
18 a number of potential partners. If you haven't, I would  
19 encourage you to talk with the representative of the teachers  
20 associations and school employees associations.

21 MS. JACOBS: Absolutely.

22 CHAIRMAN PERATA: There is a little bit of, I  
23 know, having talked about this in my own communities, a little  
24 bit of reluctance to think that you're building housing where a  
25 teacher walks out of the classroom and into the condo. It has  
26 sort of like a company town or military kind of feel to it.

27 So, I'd just encourage you to do that.

28 I think the ideas that you mentioned are as good



1 as any. There will be more. I think concentrating on three, or  
2 four, or five makes sense.

3 I don't suppose you could put a rough estimate on  
4 housing, number of units that \$100 million would buy?

5 MS. JACOBS: I couldn't and be accurate.

6 CHAIRMAN PERATA: Smart, good. That was a trick  
7 question.

8 [Laughter.]

9 CHAIRMAN PERATA: I want to also just say  
10 something candidly. There are lots of people in your business,  
11 in affordable housing and others. There are not a lot of people  
12 here today. And part of the reason is, it has nothing to do  
13 with you, but there's been sort of not quite a predatory  
14 relationship between the agency and the department and the  
15 people that do the building, but it's not a healthy one. And  
16 really, as much as anything else, you will be an ambassador to  
17 those people. You know, they'll invite you out a lot to sort of  
18 kick your tires, and hopefully you don't go too often that you  
19 can't do your work. But there's a lot of remediation that needs  
20 to be done.

21 I know lots of people that have worked with you  
22 who admire you, but the imprimatur of the department is not as  
23 encouraging, which brings me to a question that's been puzzling  
24 me. That's the replacement reserve requirements.

25 Now, we have a higher standard in your agency,  
26 your department, than any others. I've been told that that  
27 there is kind of like a fiduciary responsibility that the  
28 department has, yet I've never met any bank that thought it was

1 a nonprofit agency. They have a much lower reserve per unit  
2 requirement. I believe the FHA has also a smaller or reduced.

3 So, what is it? Why is it? Have you looked at  
4 it?

5 I'm going to ask the Legislative Analyst's Office  
6 to take a look, side-by-side comparison, for one reason and one  
7 reason only. We're effectively embargoing that money. And  
8 there is the difference between being prudent and being silly,  
9 or overly cautious.

10 I'm a great believer that no bureaucrat ever lost  
11 a job by saying no.

12 MS. JACOBS: I've heard that a few times.

13 CHAIRMAN PERATA: So, we always err too much on  
14 that side. So, talk about that particular thing.

15 MS. JACOBS: Thank you, Senator.

16 My -- first of all, from the point of view of the  
17 Department of Housing and Community Development, we have a  
18 55-year affordability control on these projects with the  
19 reserve. And keeping a project affordable for 55 years is much  
20 different than the bank financing, which tends to be much  
21 shorter term.

22 The bank is looking, of course, at being repaid.  
23 Having been on that side of the ledger, I certainly understand  
24 that. I've been repaid, and then I've been the one paying, so  
25 I've done both.

26 But what is most important for us is not only  
27 keeping that housing stock in a safe and good condition for 55  
28 years, but maintaining the affordability that we agreed to.

1                   If you are a bank, and I hope there're not too  
2 many bankers in the room, what you say when a project needs some  
3 remodeling to your nice borrower is that, well, if you don't  
4 have the money, raise the rents.

5                   We don't want to say raise the rents. That's the  
6 main reason that our reserves are high.

7                   CHAIRMAN PERATA: And that's the purpose of the  
8 reserve.

9                   MS. JACOBS: Yes, right.

10                  But what I am committed to do is, do an annual  
11 review of our reserve amount, because I don't think we have  
12 looked at it closely enough, often enough.

13                  CHAIRMAN PERATA: Excellent.

14                  MS. JACOBS: And as everything seems to change in  
15 the housing industry except for the fact that we don't have  
16 enough housing, as construction techniques improve, as building  
17 materials improve, maybe some of our reserve requirements maybe  
18 need to be adjusted downward as we look annually at all of our  
19 projects.

20                  I, however, just got a report on projects that  
21 are 10 years old, and over half of them have negative reserve  
22 accounts. So, you know, it's a concern.

23                  We want to make sure that we have the long-term  
24 affordability. And then, when we've committed to 20 units in a  
25 project being at 30 percent of very low income, that the answer  
26 to a hole in the reserve account isn't going to moderate income  
27 there.

28                  So, that's our concern. That's why our reserves

1 are high, but they may be too high. I'm going to look at that  
2 every year, and I welcome the Legislative Analyst giving me some  
3 information to bounce off of.

4 CHAIRMAN PERATA: You have people that you do  
5 business with. We probably did business with you, or you did  
6 business with you when you were in Ventura.

7 MS. JACOBS: Yes.

8 CHAIRMAN PERATA: Do you have a little bit more  
9 confidence in people you've worked with? Would that mitigate at  
10 all the reserve requirements, or could it?

11 MS. JACOBS: Well, you know, experience with  
12 particular borrowers is a very important thing to look at when  
13 you're making a judgment on either lending or investing money,  
14 certainly.

15 And of course, most of our borrowers that are  
16 repeat borrowers are very happy to share their reserve  
17 information on all of their projects, not just the ones that we  
18 finance. So, that's going to be a source I'm going to look at  
19 as we evaluate annually. Not just our projects, but what are  
20 you doing with those projects that you are funding privately, or  
21 funding through another source.

22 So, we'll take a look at all of that. And we  
23 certainly will rely on people that we have long-time experience  
24 with.

25 CHAIRMAN PERATA: And I guess that would fit into  
26 the expiration dates of some long-term contracts that are coming  
27 due?

28 MS. JACOBS: Yes, absolutely.



1           SENATOR DUTTON: Along that line on the \$600  
2 dollars per unit, what's the basis for coming up with the  
3 formula? Because all buildings are constructed differently.  
4 Stucco buildings require different maintenance, as opposed to  
5 wood siding. Different areas require different --

6           MS. JACOBS: Well, we look at basically two  
7 things. I could get in a real technical analysis and then I  
8 would lose myself.

9           CHAIRMAN PERATA: I'll save you from yourself.

10          MS. JACOBS: We're looking at two things. We're  
11 looking at, what does it take to keep that building in good,  
12 safe shape? And what kind of money does that developer need to  
13 have to keep the rents where they need to be?

14          So, there are two things in the reserve that  
15 we're looking at.

16          SENATOR DUTTON: I'm familiar with the 223(f)  
17 program.

18          MS. JACOBS: Yes.

19          SENATOR DUTTON: And I've seen different types.

20          Now, HUD has a guideline for replacement  
21 reserves. Is that what you're talking about, is basically kind  
22 of like a component, where HVAC system is 15 years, so 15  
23 replacement? Is that how you're going to do it?

24          MS. JACOBS: We look at all of that, as well as  
25 the ability to raise the rents, depending on our predictions for  
26 growth and in the CPI. So yes.

27          SENATOR DUTTON: I'm glad you're looking at it,  
28 because as a former property manager who used to actually make a

1 living by buying up properties that were mismanaged and  
2 undercapitalized, usually the maintenance and repair budget is  
3 the first thing everybody cuts. So, I'm glad you're paying  
4 close attention to that, because that's really important to make  
5 sure we maintain.

6 Maybe you can give me some later information  
7 about what areas. You know, roof replacement obviously and so  
8 forth, but your replacement reserve isn't going to be like leaky  
9 faucets, things like that. It's major components of the  
10 building; right?

11 MS. JACOBS: Absolutely. We'll get you a break  
12 down.

13 SENATOR DUTTON: If you could, I'd appreciate it.  
14 Thank you.

15 CHAIRMAN PERATA: I have one general issue that I  
16 wanted to bring up.

17 I had called the Governor earlier today, because  
18 I want to talk with him directly about this. And it came by way  
19 of Senator Florez, who is in the area.

20 There's been a release about the assistance to  
21 the victims of the freeze. The concern that I have, and I'm  
22 just going to make this as a statement, because the Governor  
23 needs to be the one to respond to this, and that is that, you  
24 know, when we end up reprioritizing existing monies, we're  
25 really simply putting money from one pocket into the other. And  
26 when we're going to redirect \$85 million of federal funds,  
27 that's exactly what we're doing. We're taking from here and  
28 putting it over there. We're basically creating a sense of

1 urgency with that.

2 There will be many occasions, not this one but  
3 during the tenure of your office, where this will become an  
4 issue. And it would be very helpful if you'd begin, and I'm  
5 sure that you have, but if you think about how this should work,  
6 what we should do so we're not telling somebody in Dinuba that  
7 the money that was going there is going to Shafter. I have no  
8 idea where the hell those two places are, but I think I saw them  
9 on the map somewhere south of Oakland.

10 [Laughter.]

11 CHAIRMAN PERATA: I think no one's claimed those  
12 two, as a matter of fact.

13 So, that's just something, because I know from my  
14 own Board of Supervisor days, that where you are asked to do  
15 that, you're really just responding to an immediate problem, but  
16 somebody who had been waiting patiently to get money to do  
17 something in the long-term basis is being shorted.

18 So, I'm going to Governor Arnold Schwarzenegger  
19 about that, but I do want to call it to your attention here.

20 MS. JACOBS: Absolutely. I appreciate that.

21 CHAIRMAN PERATA: Any other questions?

22 SENATOR PADILLA: As probably the only Member of  
23 this Committee that has been to both Dinuba and Shafter, I think  
24 the big question is for the Governor to answer, but I'd be  
25 interested in any thoughts you might have on this topic, since  
26 there's been a recent announcement and may be more?

27 MS. JACOBS: Absolutely.

28 What we're doing at HCD is, we're assisting

1 jurisdictions with the ability to use some of their HOME and  
2 CDBG, Community Development Block Grant funds, for emergency  
3 rental assistance, which isn't a normal use of those funds. So,  
4 what we're providing at HCD is technical assistance to all the  
5 affected jurisdictions, whether or not they receive funds  
6 through the state, or they receive funds directly, because there  
7 are two different ways that I know of. There are probably 400  
8 different ways, but there are two basic ways you receive those  
9 funds.

10 In addition, we are providing assistance through  
11 our OMS, migrant worker shelters that we have, but we just don't  
12 have very many beds in those shelters. It's not a -- it sounds  
13 like a major solution, but it's really a very small number of  
14 beds that are available there.

15 We would like to be more proactive, and what  
16 we're really waiting for is the Federal Declaration of Disaster,  
17 and that will free up a lot of funds that we will have some more  
18 flexibility with. And I know that the Legislature has been very  
19 proactive in encouraging that at the federal level. So, it's  
20 one of those things that we hear this week is going to happen,  
21 but we've heard it for the last three weeks, that this week it's  
22 going to happen.

23 We will be working on both short and long term  
24 solutions for farmworker housing in general, as well as looking  
25 at our other economic development programs to see how they can  
26 assist the farmers as business people. But this particular  
27 program of redirecting funds, we're implementing it.

28 SENATOR PADILLA: I think there's a recognition



1 that we're not talking about any additional or new resources.  
2 We're shifting from one pot on another.

3 MS. JACOBS: On that particular program, I agree  
4 with you, Senator.

5 SENATOR PADILLA: You mentioned working on new  
6 both mid-term longer term initiatives on the housing front.

7 When can we anticipate some report or list of  
8 recommendations?

9 MS. JACOBS: We have our -- not only our  
10 farmworker housing funds through our Proposition 1C, because we  
11 did spend all of them in Proposition 46, but we will be  
12 developing some programs for the freeze. And let's see, what is  
13 it? It's Valentine's Day today. I hope that we can have a  
14 report back to you on --

15 CHAIRMAN PERATA: On St. Patrick's Day?

16 I like the way you orient your calendar.

17 MS. JACOBS: Yes, that's right.

18 [Laughter.]

19 MS. JACOBS: Easter is probably better for the  
20 report, but I was thinking March 31st that we could get a report  
21 back to the Members of the Rules Committee of some of the things  
22 that we're proposing.

23 SENATOR PADILLA: Okay. I do have a couple of  
24 questions in other areas.

25 I'll thank you again for having come by my office  
26 last Friday afternoon to talk about some of this, but --

27 CHAIRMAN PERATA: Wait, wait, wait. You were in  
28 your office Friday afternoon? I don't want that to pass without

1 comment.

2 [Laughter.]

3 CHAIRMAN PERATA: He just got here. He's new.

4 [Laughter.]

5 SENATOR PADILLA: I haven't adjusted yet.

6 You mentioned during our meeting and in the  
7 materials you provided to the Committee this goal of making it  
8 easier for local governments to approve new housing. And that  
9 was referenced earlier.

10 It's obviously a tough balancing act, sometimes,  
11 between local governments' authority, jurisdiction, and what we,  
12 as a state, would want to do in terms of leadership in this  
13 arena. You have home builders who would tell you, if you do X,  
14 Y, Z, we can produce more housing. You have environmental  
15 groups that are wary of certain protections.

16 What do you have in mind to make it easier to  
17 approve more housing? And how do you navigate that mine field?

18 MS. JACOBS: Thank you, Senator.

19 The first thing that we're going to do is make it  
20 easier for cities to plan for housing, and that -- cities and  
21 counties. And that is by making it easier to do a housing  
22 element.

23 So, we are going to do a model housing element  
24 and have it on our web site this year. Many jurisdictions,  
25 especially the smaller ones, have a lot of difficulty raising  
26 the funds to do the planning that's necessary so that we can get  
27 good housing production, as well as commercial and industrial  
28 development. So, we think that that will help.

1                   And we have had heard frustration from  
2 communities that say, we don't know what you want.

3                   CHAIRMAN PERATA: I know the same people.

4                   MS. JACOBS: Yes.

5                   So, I think by having a model housing element,  
6 not a required housing element form, but a model that they can  
7 follow, that will have a menu of strategies that they can choose  
8 from, will be a great first step to getting housing production  
9 off the ground.

10                  We're going to encourage as much environmental  
11 review as possible on a macro level on their general plans,  
12 specific plans, and housing elements, so that they'll have  
13 environmental information available, so it makes it easier to  
14 evaluate specific projects. I think that's important. It's an  
15 important tool that many cities use quite effectively.

16                  We're going to be very active, and I think I will  
17 have a record number Southwest flights by the time we finish  
18 doing this. But I think it's important for us to go when  
19 there's a controversial housing project, or a homeless shelter,  
20 that there's a lot of community opposition, that meets all the  
21 requirements of the city, that the city staff is recommending  
22 because it meets their zoning requirements, for us to actually  
23 be there, in person, at some of these council meetings and board  
24 of supervisors meetings.

25                  My goal is to make it easier to produce housing.  
26 We have such a shortage of housing that anything that we can do,  
27 and I'm always out, talking to stakeholders, to city council  
28 members, to League of Cities groups, to see what are the

1 problems that are in their way.

2 And that's why I'm so excited that we have this  
3 infrastructure component of the housing bond, because that's one  
4 of main things I hear from cities, that they just -- they want  
5 to do the housing; they just don't have the money for the  
6 infrastructure that's needed for that housing. And they don't  
7 want to make the housing too expensive and tack it on to the  
8 price of the house.

9 SENATOR PADILLA: We also talked about increasing  
10 the supply of rental housing for the homeless. Is your vision  
11 to do that in the context or out of the context of other  
12 supportive programs and services?

13 MS. JACOBS: Well, I think there are -- there are  
14 so many different types of housing. And unfortunately, I don't  
15 know of one type that we have oversupply of in California.

16 But in terms of housing for the homeless, there  
17 are basically housing with services and housing that is just  
18 providing shelter. And I think those are both important types  
19 of housing to build, and I think we need to make sure that every  
20 jurisdiction is doing its fair share of providing that type of  
21 housing.

22 SENATOR PADILLA: Not necessarily just for the  
23 homeless, but on the topic of rental housing, multi-family  
24 housing.

25 MS. JACOBS: Yes.

26 SENATOR PADILLA: We had a great conversation  
27 about what the department can do to incentivize or build into  
28 actual infrastructure for multi-family dwellings to begin



1 recycling, not just in Los Angeles but elsewhere in the state.  
2 Can you expand on that?

3 MS. JACOBS: Absolutely.

4 You know, a little bit of our thinking on the  
5 Innovation Fund is the same kind of thinking that I have in  
6 terms of recycling on multi-family housing. And that doesn't  
7 mean multi-family housing that's necessarily low-income. It's  
8 all kinds of multi-family housing.

9 I think that if we require recycling in the  
10 design of our projects, then it will become a more common thing  
11 throughout the industry. So, that's something that we,  
12 certainly in the area of recycling want to require on our  
13 projects, that recycling is built into the project design.

14 SENATOR PADILLA: That's something I can look  
15 forward to being included in the criteria?

16 MS. JACOBS: Yes, you can. And there are many --  
17 you know, we have a lot of points criteria that are bonus  
18 points, and we have a lot of basic criteria. But I think that  
19 our first Notice of Funding Availability on Proposition 1C is  
20 already out, so it's something that we would do in our second  
21 Notice of Funding, which would be in June.

22 So, you'll get the first copy in the mail. And  
23 I'll put a circle around the recycling.

24 SENATOR PADILLA: The monies for relevant  
25 infrastructure that we talked about earlier, you mentioned sewer  
26 systems.

27 I have large sections of my district that were  
28 built out before there was a requirement on developers to do

1 things like curbs and gutters, sidewalks, street lights, et  
2 cetera.

3 Are those eligible uses of those funds?

4 MS. JACOBS: Yes, those are things that we see as  
5 definite infrastructure needs.

6 When I was talking about traffic mitigation, I  
7 include streets, curbs and gutters, as well as things like stop  
8 signs and traffic lights.

9 SENATOR PADILLA: The next area, you mentioned  
10 the innovative programs.

11 MS. JACOBS: Yes.

12 SENATOR PADILLA: And tie breakers or bonus  
13 points.

14 Is smoke-free housing one of those areas?

15 MS. JACOBS: At the moment, we don't have  
16 smoke-free housing as a bonus criteria, but that's something  
17 that we will discuss and see if we can put that in all of our  
18 programs as a bonus point.

19 SENATOR PADILLA: Is it currently being  
20 discussed?

21 MS. JACOBS: After last Friday, we started  
22 discussing it. We actually did start discussing it. I've only  
23 had one day since then to discuss it, but we have been  
24 discussing it.

25 The one area that I expressed a concern to you,  
26 Senator, that is something that we need to talk to our  
27 stakeholders is that we have a lot of housing with supportive  
28 services that we fund that are various types of programs -- drug

1 and alcohol rehab, domestic violence shelters -- these kinds of  
2 shelters.

3 I want to talk to those providers to see if they  
4 think that the smoking issue is a valid issue for that type of  
5 housing.

6 But with the rest of our housing, I think it's  
7 something we can do quickly.

8 SENATOR PADILLA: Two more questions. I know  
9 I've taken up a lot of time.

10 You mentioned domestic violence shelters and  
11 other transitional housing programs.

12 MS. JACOBS: Yes.

13 SENATOR PADILLA: What are you doing to ensure  
14 that these in some instances emergency services in housing is  
15 reaching out in languages other than English, or providing  
16 services in languages other than English?

17 MS. JACOBS: I think that's an excellent question  
18 that I don't have a good answer for you. But I do think that we  
19 have to look at each community separately in terms of what  
20 languages are needed, because there are some areas where the  
21 language might be an Asian language, as opposed to Spanish. But  
22 we definitely need to look at that, and let me get back to you  
23 with a plan.

24 SENATOR PADILLA: I agree. That's why I asked  
25 the question the way I did, to say languages other than  
26 English --

27 MS. JACOBS: Yes, yes.

28 SENATOR PADILLA: -- having been involved with an

1 effort definitely less than ten years ago to establish the first  
2 domestic violence shelter in the northern part of Los Angeles  
3 that offered services in languages other than English.

4 Last question, a topic that we did talk last  
5 Friday, your views of the mobilehome housing stock in California  
6 being viewed possibly as part of our affordable housing stock in  
7 California, what we can do to protect that?

8 MS. JACOBS: Thank you.

9 Well, we have a program that is our Mobilehome --  
10 we call it M Prop. But it's a program to assist tenants in  
11 buying their mobilehome parks. And we think that's an important  
12 alternative for affordability.

13 We do provide not only the funding to buy the  
14 park, but we provide funding for education of the tenants on how  
15 to manage the park, as well as individual loans for the tenants  
16 for in their plot -- their new plot of land as well as the home  
17 on it. So, that's one program that we have.

18 We need to work with the Legislature to take a  
19 look at the most recent legislation on mobilehome parks to make  
20 sure that we are allowing for affordability in our mobilehome  
21 parks, and we haven't inadvertently, by allowing conversions of  
22 mobilehome parks, done something to eliminate affordability  
23 controls. And that's an issue that's just been recently brought  
24 up to me, that we have some work to do in that area. So, that's  
25 something I'm going to be working on.

26 But I think it's important also to look at the  
27 unfortunate age of our mobilehome stock. We have a lot of  
28 mobilehomes in our parks that are pre-1971 and have no real



1 standards for rehabilitation. So, we need to look at perhaps  
2 developing a program to replace those mobilehomes. That's  
3 another thing we're going to work on.

4 SENATOR PADILLA: I just want to thank you for  
5 your answers here today, your time on Friday, and really the  
6 thoughtfulness and genuine concern that I hear from you --

7 MS. JACOBS: Thank you very much.

8 SENATOR PADILLA: -- as you tackle this job.

9 MS. JACOBS: Thank you, Senator.

10 SENATOR CEDILLO: Well, my colleagues have  
11 exhausted the list of my questions.

12 CHAIRMAN PERATA: Ask them again, like we  
13 normally do.

14 [Laughter.]

15 SENATOR CEDILLO: Since you brought up the  
16 driver's license.

17 [Laughter.]

18 SENATOR CEDILLO: This is all great. I'm  
19 impressed in reading here how we have 245 million to build  
20 permanent housing for the homeless, 50 million in grants for  
21 developing homeless shelters, other programs, 134 million  
22 low-interest loans, et cetera.

23 We had this discussion, and you just stated a few  
24 minutes ago that we're going to make sure that every  
25 jurisdiction did their fair share.

26 I offered last year Senate Bill 1322, Fair Share  
27 Zoning. We did not receive support from your department. We  
28 had this discussion in my office.

1                   How can we receive support from your department,  
2 one?

3                   Two, how do we make every community do its fair  
4 share? In Southern California, that's the challenge we have,  
5 whether we have the resources or not. In the northern part that  
6 the Senator represents, residents of that community are saying  
7 No to shelters for women and children.

8                   We are exhausted in my district in downtown Los  
9 Angeles. We cannot be receiving all the homeless people in the  
10 world.

11                  There are places in this state that are senders,  
12 and then there's others that are receivers. That simply has to  
13 end.

14                  How do we do that?

15                  MS. JACOBS: If there was an easy way to do it,  
16 it would be done now.

17                  What -- we certainly have a format by using our  
18 housing elements to require housing for all levels of the  
19 population and all types of housing, including homeless shelters  
20 and emergency shelters. We have that in housing elements.

21                  The Legislature has done an excellent job of  
22 refining the housing element process. So, now we receive  
23 inventories of sites, and we can hold cities accountable for  
24 them actually giving permits for those sites to be built on.  
25 So, I think there's been a tremendous positive change in housing  
26 element law over the last five years that we'll be able to do  
27 that.

28                  It's a slow process. We do look at, with our

1 programs in the bond which we, especially with the  
2 infrastructure fund, know that our cities and counties are very  
3 interested in receiving those funds, we want to have  
4 requirements that not only they have a housing element in place,  
5 but they're actually producing the housing. And we mean  
6 producing all of the types of housing that are in their housing  
7 element. So, that's one way to incentivize that kind of  
8 production.

9 SENATOR CEDILLO: You would condition the grants  
10 on the issuance of the whole thing, so this was a recovery  
11 concept?

12 MS. JACOBS: Well, we think -- and I know that  
13 Senator Perata gets more calls than we do at HCD for this infill  
14 funding, but we think that I can be fairly safe in saying  
15 there's more demand than there are funds.

16 So, what should be the threshold criteria? And  
17 that's one of the things we kind of talked about a little bit in  
18 the beginning. We are looking at the threshold criteria to even  
19 be allowed to apply to be that you have an approved housing  
20 element and you are doing -- meeting your production goals from  
21 the housing element to begin with.

22 We're also looking at having a capital  
23 improvement plan, or some kind of infrastructure plan in place  
24 so that the funds can be used quickly. We think that's very  
25 important. I think that's what I think the voters expect, as  
26 Senator Perata mentioned. So, that's one way to incentivize  
27 already performing.

28 We continue to monitor housing production

1 performance from our cities, and we will use our influence, such  
2 as it is, by actually coming down and working with cities. If  
3 they tell us that they're trying to process a project that's a  
4 special needs type of housing, and that they're having  
5 difficulties, I and my staff will come down and work with them  
6 before it gets to the public hearing to try -- to try to make  
7 sure that it gets approved.

8 So, those are some of the things we're looking at  
9 doing on the short term.

10 SENATOR CEDILLO: What about the inverse? When  
11 the cities aren't trying? When they don't want to, you know --  
12 I don't want to beat up on Thousand Oaks. They're already upset  
13 with me every time I mention their name.

14 [Laughter.]

15 SENATOR CEDILLO: But, you know, they simply say,  
16 look, we don't want it, and we're not going to have it.

17 MS. JACOBS: Then what we will do is, we will  
18 work with the potential developers, rather than working with the  
19 city. And we may be helping the city to see why this is a good  
20 thing.

21 SENATOR CEDILLO: As I said, most of my questions  
22 were asked, but there are two last things.

23 You had talked about a model for housing with job  
24 training. That intrigued me. Can you give me some examples?

25 MS. JACOBS: Well, I was thinking particularly of  
26 the construction industry, which is, I think, a wonderful  
27 industry and has a number of construction unions that provide  
28 excellent pre-apprenticeship training.



1                   And they're very interested in helping with the  
2     kind of housing that we do for entry level or low-income  
3     housing, to help those residents get jobs.

4                   So, sometimes some of the programs that I have  
5     actually worked on, we have looked at using, when it's not  
6     attached housing, which the construction liability insurance  
7     becomes too much of an issue, but when there is a single family  
8     housing tract, of taking one of the houses and using that as a  
9     laboratory for a particular group of construction trade unions  
10    to use as training for people, as well as having classes on site  
11    that are not the actual physical construction work classes, but  
12    the math classes that they need to have for reading blueprints  
13    and doing designs. So, having those on site at projects, and  
14    doing actual building, building parts of the projects.

15                  SENATOR CEDILLO: One last question. I'm  
16    impressed by all the efforts of the Governor and the Legislature  
17    in responding to the freeze. I saw a whole range of services  
18    here. I didn't know that they were distinguished in terms of  
19    the relief.

20                  The ag. industry is obviously an industry that's  
21    dominated, over 90 percent, by an immigrant workforce, and  
22    significant numbers of them, literally probably more than 50  
23    percent, undocumented.

24                  I didn't see any distinctions here for who was  
25    eligible for relief.

26                  MS. JACOBS: What we're trying to do is help  
27    everybody.

28                  SENATOR CEDILLO: Thank you.

1 CHAIRMAN PERATA: Now, we have the audience  
2 participation portion. If you were paying attention raptly, you  
3 probably know that the nominee not in any danger.

4 So, if you would just briefly say how supportive  
5 you are, that would be great.

6 MS. MINNEHAN: Thank you very much, Senator.

7 In two sentences, I've had a year --

8 CHAIRMAN PERATA: You can say nice things  
9 anonymously, but why?

10 [Laughter.]

11 MS. MINNEHAN: Christine Minnehan, Western Center  
12 on Law and Poverty.

13 I've had the pleasure of working with Ms. Jacobs  
14 over the last year. The evidence is here today. You've heard  
15 the frank, clear, problem-solving person that will work with  
16 both sides of the issue, find a middle ground, and put it out in  
17 a simple -- I'm not going to say transparent. I'm getting tired  
18 of that word -- but she does it in a way so that when we're  
19 talking about reserves, and the loss of affordable housing, she  
20 finds a way in the middle, Senator, to figure out how to keep  
21 the rents low, but to protect the condition of the housing.

22 And Senator Dutton, I would just mention that  
23 there is one program at the department that you might want to  
24 take a look at again. It's ten or more years old. And it was  
25 single parents moving to work. And it was a program that  
26 brought together those two components that you were talking  
27 about. They were parents that weren't in the job force.

28 It was the provision of housing for a briefer

1 period of time while that, generally it was a mother, was able  
2 to get the training. Drew Medical Center was one of the  
3 components, where you put together the laboratory, lots of  
4 different kinds of laboratories. And I think it was -- it needs  
5 some streamlining, but we've been talking about how much every  
6 bit of this housing needs streamlining.

7 But I am just pleased to be here to support Ms.  
8 Jacobs for this position.

9 CHAIRMAN PERATA: That's kind of a Romance  
10 Language word, pleased.

11 [Laughter.]

12 MR. WIENER: I will be briefer than Christine.  
13 My name is Rob Wiener, with California Coalition for Rural  
14 Housing. We're a coalition of community-based affordable  
15 housing developers, working primarily in rural parts of the  
16 state.

17 We think that Lynn has done a phenomenal job to  
18 this point. And we're really thrilled. We think she'll be a  
19 terrific steward of the Prop. 13 monies.

20 She knows housing. She's passionate about  
21 housing, and I think she's an inspired choice. So, we certainly  
22 recommend her appointment.

23 Thank you.

24 CHAIRMAN PERATA: Thank you.

25 MS. BAKER: Mr. Chairman, Members of the  
26 Committee, DeAnn Baker, representing the California State  
27 Association of Counties.

28 You couldn't have said it better. We share your

1 sentiment. She's the right person at the right time for this  
2 position.

3 We can say that she's been very responsive,  
4 obviously very knowledgeable, shares various perspectives which  
5 will enable her, in our opinion, to be able to assist us in  
6 tackling the housing issues facing the state.

7 For that reason, we're here to lend our support  
8 for Ms. Jacobs.

9 CHAIRMAN PERATA: Thank you.

10 MS. DELLINGER: Good afternoon. Kimberley  
11 Dellinger with the California Building Industry Association.

12 On behalf California home builders, we too are  
13 very supportive of Ms. Jacobs' confirmation to lead the  
14 department.

15 We have all heard about her experience today and  
16 thing she will be a great leader.

17 It's also important to know her dedication and  
18 her passion for the housing needs of Californians, and we look  
19 forward to her leadership at HCD.

20 Thank you.

21 CHAIRMAN PERATA: Thank you.

22 MR. AUGUSTA: Brian Augusta on behalf of the  
23 California Rural Legal Assistance Foundation in support of the  
24 nominee.

25 We are favorably impressed with the response so  
26 far of Ms. Jacobs and her department to the impact on our  
27 clients from the freeze, many of whom are farmworkers who are  
28 now desperately seeking housing in those affected areas.



1                   So, we strongly support her nomination. Thank  
2     you.

3                   CHAIRMAN PERATA: Thank you.

4                   MS. PARKER: Mr. Chairman and Committee Members,  
5     Terry Parker with the California Housing Finance Agency.

6                   I am Lynn's sister state agency. And I really  
7     wanted to come today to support her candidacy for your  
8     consideration and her confirmation.

9                   But also to echo that we have bonded as the two  
10    sister state agencies. We worked completely together from the  
11    very beginning on programs, whether they be homeless, or housing  
12    affordability issues, for ownership. We are committed to do  
13    something, get something done, and recognize that we serve the  
14    customers and citizens of the State of California.

15                  So, she is a great partner, and I would ask for  
16    your consideration of her support.

17                  Thank you.

18                  CHAIRMAN PERATA: Thank you.

19                  MR. WALLAUCH: Good afternoon. Steve Wallauch  
20    with Lynn Suter and Associates.

21                  I'd like to express the support of the Ventura  
22    County Board of Supervisors for the nomination and urge your  
23    support.

24                  CHAIRMAN PERATA: Home country heard from.

25                  MR. MILTON: Mr. President and Members, David  
26    Milton with the California Association of Realtors.

27                  We, too, are extremely pleased to have the  
28    opportunity to express our unbridled support for this

1 confirmation of Ms. Jacobs. She'll be a tremendous director.

2 CHAIRMAN PERATA: Thank you.

3 MR. HIGGINS: Bill Higgins, with the League of  
4 California Cities.

5 We're pleased to come up and support Ms. Jacobs'  
6 nomination.

7 She's done everything to outreach to our  
8 communities. We recently gave her a local government outreach  
9 award, because we feel that he's doing good job of listening.  
10 We know that she won't always make a decision that we're going  
11 to like, but we think that we'll get heard, and we appreciate  
12 that very much.

13 CHAIRMAN PERATA: As soon as she's confirmed,  
14 watch out.

15 [Laughter.]

16 CHAIRMAN PERATA: Anybody here to wants to be  
17 dumb enough to come up and oppose? Good.

18 Well, thank you. This has been enlightening.

19 I admire the fact that you, after a year almost  
20 of doing the job, you haven't left the building screaming.

21 I just want to leave you with one thing. You  
22 probably know this, but we were at a housing conference this  
23 morning in the Silicon Valley. There was a young woman that had  
24 been a beneficiary of help through the Santa Clara Housing  
25 Trust.

26 She got an one-bedroom condominium, 610 square  
27 feet, for \$350,000. And it was one of those full package deals,  
28 where they went down the aisles and pulled one off here, and one

1 off there, and packaged it together.

2 And that probably says more than anything, the  
3 responsibility that we have, because we are just making it  
4 impossible for young people now to live where they work and have  
5 any hope of living where they work.

6 I know you know that. I think I probably did,  
7 too, but this young fresh face talking about how home ownership  
8 was such a wonderful thing for her, you know. There's an old  
9 adage that says, "Nobody burns down their own neighborhood." If  
10 we had more of that, we'd have less of the other problems.

11 I wish you well.

12 We have a motion for recommendation to confirm.  
13 Call the roll, please.

14 SECRETARY WEBB: Cedillo.

15 SENATOR CEDILLO: Aye.

16 SECRETARY WEBB: Cedillo Aye. Dutton.

17 SENATOR DUTTON: Aye.

18 SECRETARY WEBB: Dutton Aye. Padilla.

19 SENATOR PADILLA: Aye.

20 SECRETARY WEBB: Padilla Aye. Ashburn.

21 SENATOR ASHBURN: Aye.

22 SECRETARY WEBB: Ashburn Aye. Perata.

23 CHAIRMAN PERATA: Aye.

24 SECRETARY WEBB: Perata Aye. Five to zero.

25 CHAIRMAN PERATA: Congratulations, it's  
26 unanimous.

27 MS. JACOBS: Thank you so very much.

28 CHAIRMAN PERATA: We're going to take a

1 five-minute break.

2 [Thereupon the Rules Committee  
3 took a brief recess.]

4 CHAIRMAN PERATA: The Senate Rules Committee  
5 will reconvene.

6 We have two more, Chad Charton, as a Member of  
7 the Student Aid Commission, and Dennis Galligani.

8 You two coin flip for whoever would like to go  
9 first. Neither? Okay, we'll go in alphabetical order.

10 MR. CHARTON: Good afternoon, Mr. Chairman,  
11 Members of the Senate Rules Committee.

12 I am Chad Charton. I've had the privilege to  
13 serve on the California Student Aid Commission for this past six  
14 months.

15 I would like to begin that it is a real pleasure  
16 to be here today, considering under normal circumstances, my  
17 schedule would have me in class. So when I say it's a real  
18 pleasure to be here, believe me, in this particular case, I  
19 actually do mean that.

20 [Laughter.]

21 MR. CHARTON: So, I too would like to take  
22 advantage of this opportunity to provide greater insight into  
23 the nature of my background and the credibility of my  
24 qualifications that I personally believe will be of further  
25 value to the commission, our charge, and ultimately the students  
26 that we serve.

27 I currently am a 22-year-old undergraduate  
28 student, attending California State University Northridge, where



1     thankfully this June I will be receiving a Bachelor's of Science  
2     Degree in Business Administration with an emphasis in financial  
3     services. And after five very, very long years, again, I'm  
4     very, very proud of that.

5             The past years, however, of my college career  
6     may have been characterized as some of the most incredible years  
7     of my life. They've been some of the most exciting,  
8     exhilarating, and beneficial years in that I've made the  
9     personal decision to get extraordinarily involved in my college  
10    career. This, of course, would be the culmination of that,  
11    appearing before you today.

12            During my tenure at Cal State Northridge, I've  
13    had the privilege and the opportunity to serve as Chairman and  
14    President of the Associated Students, which is the acting  
15    student governance organization at Cal State Northridge, where I  
16    was principally charged with advocating in the interests of  
17    nearly 33,000 students actively in attendance at our university,  
18    and exercised oversight of a student fee based budget that,  
19    during my year, was at \$6 million, again in student fees.

20            Previously, I had spent three previous years  
21    assuming additional leadership roles within the Associated  
22    Students, and those included Director of Finance, Senator to the  
23    Board of Directors, and Director of the Disabled Student  
24    Population.

25            Additionally, I've served on the Board of  
26    Directors of the California State Student Association, which I  
27    would assume that some of you are quite familiar with, where  
28    student leaders of the 23 California State Universities come

1 together to discuss and advocate the interests of the collective  
2 CSU student population, which to date is at 409,000 thousand  
3 students.

4 I've also be fortunate to further my educational  
5 experience by serving on the National Board of Directors for  
6 Consumers for Cable Choice, in addition to various leadership  
7 development initiatives on behalf of my international  
8 fraternity, Sigma Chi.

9 Additionally, within the private sector, when I'm  
10 not attending class and pursuing my leadership educational  
11 experiences and opportunities, I'm affiliated with a financial  
12 services firm by the name of FMS Financial Partners. I  
13 personally oversee a variety of our marketing and development  
14 efforts, in addition to overseeing our small business area,  
15 where I personally design and implement employee benefit  
16 programs sponsored by many local employers in the region that I  
17 serve.

18 Beyond that, I also serve on the consumer market  
19 as an independent life and health insurance agent, and of  
20 course, I'm eligible to do so by being a licensed resident  
21 insurance producer on behalf of the California Department of  
22 Insurance.

23 So to close my opening remarks here this  
24 afternoon, I'd just like to comment that I'm very confident of  
25 my abilities to make meaningful and valuable contributions to  
26 the commission as we move forward to better our current state of  
27 affairs and the student constituency that we serve during what  
28 is, and as you very well know, is a very critical time.

Therefore, I'd just like to further reiterate that, again, it's my belief that my prior experience, coupled with my performance thus far, have served to demonstrate a true commitment towards the commission's primary mission of making education beyond high school financially accessible to all Californians.

So, I'd just like to thank you. It is a pleasure to be here, and I appreciate your thoughtful consideration.

CHAIRMAN PERATA: You haven't done much since you turned 22; have you.

[Laughter.]

MR. CHARTON: That's right.

CHAIRMAN PERATA: Slacker.

Is that a Republican district that you live in,  
Northridge?

MR. CHARTON: What?

CHAIRMAN PERATA: Do you live in Northridge?

MR. CHARTON: In Northridge, correct.

CHAIRMAN PERATA: Who's your State Senator?

MR. CHARTON: George Runner.

CHAIRMAN PERATA: And your Assembly Member?

MR. CHARTON: Cameron Smyth.

CHAIRMAN PERATA: I'll tell George he ought not to sleep too comfortably at night.

[Laughter.]

CHAIRMAN PERATA: And I'll be delighted to do it.

[Laughter.]

1 CHAIRMAN PERATA: Mr. Galligani.

2 MR. GALLIGANI: Mr. Chair and Senators, you have  
3 my resume and my response to your questions. So, if I just may  
4 make some brief opening comments and then get to your questions  
5 in the interest of time.

6 I spent 30 years with the University of  
7 California, completing that tenure in the summer of 2005, the  
8 first 15 years on the University of California Irvine campus,  
9 and the last 15 in the University's Oakland office, the Office  
10 of the President and the Central Office.

11 During those last 15 years, I was responsible for  
12 the area of student affairs, so that included academic  
13 preparation programs, including MESA, PUENTE, the Early Academic  
14 Outreach Program, the statewide Gear Up Program, and I was very  
15 involved in working with schools, intersegmental work across  
16 community colleges, CSU, independent institutions, trying to  
17 improve the schools, working with higher education to get that  
18 done.

19 I was also responsible for the admissions system  
20 for the University, responsible for on-campus student life  
21 issues from a system-wide perspective, and then also for student  
22 financial support. And was -- helped to develop the  
23 University's Educational Finance Model, which I believe is one  
24 of the best financial aid models in the country, balancing  
25 students' and families' contribution with what the state  
26 generously provides, federal government, and then the  
27 University's resources. And saw the University's resources  
28 increase quite a bit to students.



1                   And I think you know that your University of  
2 California has the highest number of low-income students of any  
3 public research university in the country. Berkeley and L.A.  
4 are the two highest. As a system, we stand third across the  
5 country. So, I think it's a marvelous achievement, and you have  
6 helped make that -- make that happen.

7                   When I retired, I become the Executive Director  
8 of a group called ARCHES, the Alliance for Regional  
9 Collaboration to Heighten Educational Success. What we're  
10 attempting to do under the California Educational Round Table is  
11 build regional collaboratives across the state of four-year  
12 institutions, community colleges, businesses, community-based  
13 organizations, and parent organizations, all focused on  
14 improving schools as they see the problem -- what's the local  
15 issue that needs to be resolved -- and bringing the resources  
16 together from that region to work on that program in a  
17 collaborative way, ending up in closing the achievement gap, and  
18 we hold them accountable through measurable student outcomes.

19                  So, when the University of California called and  
20 asked if I would consider this position, it made sense to me  
21 because I've always believed that access for students -- and  
22 I've been an advocate of that for many, many years -- is  
23 two-fold: academic preparation, which is what I'm working on  
24 right now; and the financial ability to take advantage of that  
25 academic preparation, those wonderful skills that our students  
26 and children bring to the table.

27                  So, I agreed to be put forth, and I'm delighted  
28 to be here today. I believe my background serves me well for

1       this position, and I'd be happy to answer any questions you  
2       might have.

3                   CHAIRMAN PERATA: I notice you didn't stay in  
4       Oakland; did you?

5                   MR. GALLIGANI: We have family in Southern  
6       California, and it was a very powerful draw.

7                   CHAIRMAN PERATA: Somebody has to live down  
8       there.

9                               [Laughter.]

10                  CHAIRMAN PERATA: We probably all are interested  
11       in the Cal Grant program. A couple things very struck me, and  
12       there's nothing you have any control over, but one is that the  
13       average Cal Grant Competitive Award recipient is 31 years old,  
14       and has a family income of 14,000, a GPA of 3.3, and only 17  
15       percent of the applicants -- I guess there were 136,00 who were  
16       eligible.

17                  And, you know, that once again underscores. I  
18       mean, if we're third in the country, it kind of shows how far  
19       behind generally we are.

20                  But the most striking thing was that vocational  
21       education, the grant is \$576 dollars.

22                  MR. GALLIGANI: The Cal Grant C is, I think it's  
23       around 1500. I'd have to check that for you, Senator. I think  
24       that's what you're referring to, the Cal Grant C Program.

25                  Now, there aren't a lot of those Cal Grant Cs.  
26       There's only about 7500 that are available. But that's not a  
27       lot of money for -- comparatively speaking -- for some of what  
28       these programs cost.

1 CHAIRMAN PERATA: Yes.

2 MR. GALLIGANI: And I think that's one of the  
3 real issues that has to be addressed, I think, especially with  
4 the growing awareness of the importance of the career technical  
5 combination for students, and combining that, that work, with  
6 college preparatory work. So, melding those and seeing those  
7 both is very important, and that means increasing those kinds of  
8 opportunities for students in career tech.

9 My own view is, we need to understand better the  
10 career technical arena and what students really want out of that  
11 approach.

12 Getting a Cal Grant C is not an easy process.  
13 And I think we might be able to streamline.

14 CHAIRMAN PERATA: Nor a rewarding one,  
15 apparently.

16 MR. GALLIGANI: It's not. It's not a lot of  
17 money comparatively speaking. I mean, it helps, of course, but  
18 it's -- comparatively speaking, it isn't.

19 I'd like to see us understand better the needs of  
20 students in the career tech area, and then, ideally, provide  
21 more facile ways of meeting those needs. So, that's something  
22 I'm very interested in.

23 CHAIRMAN PERATA: Why don't you each give us a  
24 brief analysis of how well you think we're doing in  
25 administering the Cal Grant Programs?

26 MR. CHARTON: I think, Senator, we're making  
27 progress in that area. I think it's safe to say that the  
28 commission has sustained tremendous challenges in recent years,

1 keeping in mind, of course, that both Dennis and I inherited the  
2 roles just a few short months ago.

3 In terms of the administration, as you are aware,  
4 by statute the commission itself adopted its current structure  
5 back in 1978, which -- at which time our loan guarantee agency,  
6 Ed Fund, was brought on board to facilitate the federal loan  
7 program.

8 Now, at that time the Legislature deemed that  
9 that was the most appropriate structure and economy to adopt.  
10 And I think recently the question has been raised on whether or  
11 not that remains true today in the current federal loan  
12 environment, in addition to the current dynamics and forces at  
13 work in the state.

14 The structure itself, as I understand it, there  
15 are really five options. And as we have it now, it appears that  
16 there seems to be some challenges and tensions in maintaining a  
17 state agency subject to regulatory control, coupled with that of  
18 a 501(C)(3) corporate entity, competing in competitive private  
19 sector environment. And so, we're seeing that there's some  
20 tension there.

21 MR. GALLIGANI: I would -- Chad's described that  
22 well.

23 I've had one meeting with the commission. I was  
24 appointed in October and had one meeting with the commission.

25 I think the most important thing you should hold  
26 us accountable for is what happens after March, because that's  
27 when we have to ensure that the trains run right, that the  
28 students who have applied for the Cal Grants, this very



1 important program, have gone through the hoops that we've put up  
2 in front of them, actually get the resources.

3 And there were some issues last year. And I  
4 think one of the things that I feel very important -- are  
5 important and are committed to is ensuring that that happens and  
6 in the timely and efficient way. So, I think that's the first  
7 measure. We've got to make sure we're doing the core business  
8 very well.

9 And Chad talked about the additional part about  
10 the guarantee agency. And it's an odd cultural match of the  
11 commission on one hand, and its roles and responsibilities, and  
12 the Ed Fund, which has a very different -- business-like, should  
13 be flexible, should be entrepreneurial, et cetera. And it's, in  
14 a sense, a clash of cultures that we're seeing around the  
15 entities.

16 The first step, which we'll have at our next  
17 meeting next week, is consultants who have been reviewing --  
18 Chad, you may know, for eight months, a year -- the roles and  
19 responsibilities?

20 MR. CHARTON: No, it's been less than that. I'd  
21 say it was approved by the commission, at least in its final  
22 stages, no more than three or four months ago.

23 MR. GALLIGANI: Well, there is this group  
24 that's -- that is to look at what should be the roles and  
25 responsibilities of Ed Fund, what should be -- can we get some  
26 clarity that may help clear up some of the conflict that's  
27 occurring between those two groups.

28 I think that's a good first step. My belief is,

1     though, it goes deeper than that, as Chad was suggesting, and  
2     that we have to look really in depth at these two organizations.

3             Can they meld together? If so, how can that  
4     happen in the best possible way? And that's going to take work,  
5     Senator.

6             CHAIRMAN PERATA: The forms, I've not seen one,  
7     but I've requested one. I hear that they are just this side of  
8     near impossible to figure out.

9             I know they're federal.

10            MR. GALLIGANI: Yeah. These are the FAFA loans  
11     what you're referring to.

12            I don't know if it's good or bad news. They're  
13     better than they were. I think we need to continue to lobby  
14     very strongly to get our input into that. I think there's a  
15     more -- people are getting them done, but they are difficult.

16            CHAIRMAN PERATA: Do you provide any assistance?

17            MR. GALLIGANI: Absolutely, absolutely.

18            Chad, we just participated in -- there's a series  
19     of what I think are very good presentations across state,  
20     bringing people together to actually help them sit down on site  
21     and fill out FAFA's and go through all the information.

22            Chad and I were at an event in Los Angeles  
23     recently, and these are held across the state.

24            In addition, UC, CSU, community college, and  
25     independent academic outreach folks work on that as well.

26            So, they are difficult. They are being worked  
27     on.

28            I worry more on the federal level. I believe

1 that the commission should be more active in advocacy role at  
2 the federal level. "I think there's a tremendous issue about the  
3 way California's being held as compared to other states.

4 If you are making an income of \$50,000 dollars in  
5 California, you're being compared to people at other states  
6 making that same amount of money. Well, there's a disparity in  
7 terms of cost, not just for us, but for other states as well.  
8 And I think we should be working very, very aggressively with  
9 our federal contingent to help turn that around, and other  
10 issues.

11 CHAIRMAN PERATA: I would encourage that.

12 Members? Alex.

13 SENATOR PADILLA: I had a flash back to some of  
14 those forms.

15 [Laughter.]

16 SENATOR PADILLA: And I appreciate what you said  
17 about assisting students, not for the state forms but the  
18 federal forms.

19 I don't think if you caught this article from the  
20 L.A. Times just a about week ago, speaking in pretty good detail  
21 about the rate at which Latino students aren't participating in  
22 loan programs, despite money being available, the good kind of  
23 loans you want on your credit report.

24 I'm wondering, what sort of outreach when it  
25 comes to student aid is being done to minority populations,  
26 economically disadvantaged populations, non-English speaking, or  
27 nonprimarily English speaking populations?

28 MR. CHARTON: Senator Padilla, if I could speak

1 to that.

2 As Dennis cited, we have a whole host and  
3 assortment of outreach initiatives and programs to address the  
4 very issue that you're raising.

5 What we have done, and you may be familiar with  
6 our Cal SOAP Program, which is our designated outreach program,  
7 in-house, internally, that is specifically charged with  
8 extending that outreach and the support for our underserved  
9 first generation low-income students.

10 I have not participated in the program directly,  
11 although I hear it is quite the success. It's been operating I  
12 think by statute since the late '70s.

13 SENATOR PADILLA: Not a personal question here,  
14 but obviously it's not operating with a lot of success.

15 So, what conversations have you been a part of  
16 since you have joined the board this last year to revisit it, to  
17 analyze it, to make it better, to modernize it?

18 MR. CHARTON: In all honesty, I have not  
19 participated in any conversation at the commission level to that  
20 topic.

21 In addition to the Cal SOAP, I do know that our  
22 outreach initiatives that take place on an annual basis during  
23 the financial aid season, being now, have, from what I  
24 understand, have incorporated that element.

25 I did see that article myself also just a few  
26 short weeks ago, but I'm unaware of any specific measures that  
27 have been either incorporated or reviewed to make some progress  
28 in those areas.



1 MR. GALLIGANI: If I may add to that, Senator, I  
2 do know that the University of California, CSU, community  
3 colleges, our Gear Up Program, do deal with those issues.

4 And there are cultural issues, especially around  
5 loans, to try to get parents to understand that, unfortunately,  
6 at these points in time, depending on the income levels, as you  
7 know, and the number of children, it may be necessary to take  
8 loans at this point in time. And so, that is an important  
9 issue.

10 My view is two things. One, because of my  
11 background, I've asked and am now on the Outreach Committee of  
12 the commission. We'll have our first meeting that I'll attend  
13 tomorrow.

14 Secondly is, it goes back to a statement I made  
15 earlier. I really think it's important that we put measurable  
16 outcomes to these programs to show that, in fact, they're being  
17 successful, and take issues like the one you've just raised.  
18 All right, let's take the issue of loan aversion. How can we  
19 break that down, understand what the problem is, and then set a  
20 goal to overcome that issue, and have a measurable outcome and  
21 say: Is our program actually effectively reaching that outcome?  
22 If not, let's change it so it can.

23 And I'd like see all of our outreach programs  
24 within the commission have that kind of measurable outcome.

25 SENATOR PADILLA: Thank you. I appreciate that.

26 I would want to hear back from both of you, if  
27 not formally from the commission as a whole, on what's going to  
28 be done about this going forward.

1 MR. GALLIGANI: And to be fair, there may be work  
2 done on that. As I said, the first meeting that I'll be  
3 attending is tomorrow, and there may be work that I'm not aware  
4 of.

5 SENATOR PADILLA: In the same spirit, not so much  
6 on the financial aid piece, but on the articulation of community  
7 college students to four-year universities, again, what's going  
8 on? We've heard from Members and read numerous reports on our  
9 lack of high performance in that arena.

10 What else can we do?

11 MR. GALLIGANI: In terms of financial support  
12 specifically?

13 SENATOR PADILLA: Financial support and just --

14 MR. GALLIGANI: In terms of general transfer  
15 issues.

16 SENATOR PADILLA: Yes.

17 MR. GALLIGANI: This has been an issue that I've  
18 been involved in, both from the UC side there, now involved in  
19 my work in building these collaboratives. A number of them have  
20 taken transfer -- transfer on.

21 My own belief is that, you mentioned  
22 articulation, and that is critical. You probably all know  
23 that's ensuring that the courses that you take at a community  
24 college can transfer effectively.

25 And a number of years ago this was a really -- I  
26 think a real troublesome issue. But I believe it's been  
27 addressed pretty effectively over the last ten years. And  
28 there's now in place pretty good articulation between the

1 segments.

2 The problem is, there is a problem, I believe,  
3 and the problem is getting that information to students. I  
4 don't think we have done as much as we can or need to do to  
5 help counsel students in the community colleges right when they  
6 begin, to take the right set of courses that will get them to  
7 transfer to where ever their transfer-appropriate goal is.

8 We need to use the technology as best we can, and  
9 people as best we can to do that. I think that's one of the  
10 most critical issues.

11 As you may know, we do have, in terms of the Cal  
12 Grant Program, special transfer entitlement grants, so, grants  
13 that do go to students who are in the transfer process. So,  
14 there is financial support for those students.

15 SENATOR PADILLA: Last question. We had an  
16 opportunity to speak in my office about this, Chad.

17 But I haven't had a chance to talk to you about  
18 this: your thoughts or position on AB 540 students, both on the  
19 admissions into higher education institutions in California, and  
20 secondly, the extension of financial aid resources to AB 540  
21 students?

22 MR. CHARTON: I do know, Senator, that that has  
23 become a very important piece in the Cash for College Workshops  
24 that we conduct throughout the state, that we make a concerted  
25 effort to make it known that those students who are eligible and  
26 do qualify under that statute, are very -- are informed and  
27 familiar with how to move forward.

28 But Dennis, I don't believe you've had much of an

1 opportunity to work in that area, and quite frankly, neither  
2 have I. I'm still kind of new to the topic.

3 MR. GALLIGANI: The only thing, as I mentioned to  
4 you, and I did look into it a little more deeply since we talked  
5 yesterday, Senator, so I know that in fact what I suggested to  
6 you is accurate, and that is, the commission does oversee  
7 something called Chafee Grants. And these are grants  
8 specifically focused on students coming from foster homes. So,  
9 these are students at the very lowest end of the economic  
10 situation.

11 And what I need to do is find out more about  
12 them, but in fact, undocumented students can participate in that  
13 program. So, as I suggested, we need to learn more about how  
14 that occurs, what's the undergirding principles as related to  
15 that, and then what allows that to happen, and can that be  
16 extrapolated to other students.

17 SENATOR PADILLA: Last question to Mr. Charton,  
18 more of a recent college graduate than anybody else here, were  
19 you a recipient of financial aid while going through your  
20 undergraduate degree? And without getting into specific  
21 numbers, if so, what types of financial aid?

22 MR. CHARTON: No, Senator. I actually have been  
23 fortunate enough where I did not need financial assistance to  
24 support my college education.

25 Although, I don't believe that hinders my ability  
26 to speak or advocate on behalf of those that do. And I've spent  
27 several years doing just that, and most recently at the state  
28 level last year.



1 But I do, as I can imagine -- my roommate, for  
2 example, is one of them. And I have had lengthy discussions  
3 since my tenure at the commission level about their experiences,  
4 the students in my classes. Et cetera.

5 I had a recent experience just this past week, as  
6 a matter of fact. We began classes three weeks ago, and the  
7 gentleman sitting next to me in my Principles of Insurance  
8 course had our latest publication from the Ed Fund Board, and I  
9 couldn't help but strike a conversation.

10 So, I hope that answers your question.

11 SENATOR PADILLA: Thank you.

12 CHAIRMAN PERATA: Principles of Insurance. I've  
13 never heard those words together.

14 [Laughter.]

15 CHAIRMAN PERATA: So, you're a pay-as-you-go kind  
16 of guy. Runner should really be worried.

17 Any other questions from Members?

18 SENATOR CEDILLO: On the AB 540 students, I'm  
19 interested in having further discussion with you. I'm intrigued  
20 that there's actually a program that undocumented students would  
21 be eligible for.

22 But I'm also interested, are you guys prohibited  
23 from -- I mean, here we have a community of students who are  
24 admitted to all our schools. It seems that the record is that  
25 they're many instances the best and the brightest, the highest  
26 performing. And we undermine their ability to be successful by  
27 not permitting them to receive financial aid.

28 Are there other independent, private sector

1 resources that we're corralling, that we're bringing together to  
2 protect the investment that we're making in them?

3 We do permit them to pay in-state tuition. Some  
4 view that as an investment, but then we undermine that  
5 investment by not permitting them to apply.

6 MR. GALLIGANI: I couldn't agree with you more,  
7 Senator, about the potential. I have personal experience with a  
8 number of undocumented students. These are terrific, terrific  
9 people. Wasting that potential would be a real shame.

10 Segments and individual campuses, and so on,  
11 external sources can provide resources to support undocumented  
12 students. So, that is one mechanism that can be used.

13 Others could be, you know, advocating for other  
14 legislation, such as AB 540, et cetera, to move that ahead. And  
15 I know the commission has been supportive of that legislation in  
16 the past, and I think that's appropriate.

17 SENATOR CEDILLO: Are there prohibitions from the  
18 commission being involved in trying to marshal those types of  
19 private sector resources?

20 MR. GALLIGANI: I don't know. I can find out for  
21 you. That I don't know. That's a good question.

22 MR. CHARTON: Senator Cedillo, if I could speak  
23 to that, our Cash for College initiative, where we conduct the  
24 workshops throughout the state --

25 SENATOR CEDILLO: You collaborate with that.

26 MR. CHARTON: -- and there is a work in  
27 collaboration with the private sector.

28 And in our region, I just participated in our

1 local kick-off press conference at the Miguel Contreras Learning  
2 Complex on Thursday. And that is, we couldn't have any more  
3 support from the L.A. Chamber of Commerce.

4 And so, we've developed these collaborative  
5 working partnerships, and they really are just that. They are  
6 true partnerships where folks are putting up both time and money  
7 to achieve some of our shortcomings in further support of the  
8 programs, you know, and our students. So, I think that's a  
9 great thing. And I know in L.A. we're doing a great job of it.

10 SENATOR CEDILLO: The Chamber's actually been  
11 very -- the L.A. Chamber, the San Francisco Chamber -- have  
12 been very supportive of SB 160, the efforts to permit  
13 undocumented to be equal.

14 In the interim, we really need to marshal our  
15 resources, because these are brilliant young people.

16 MR. GALLIGANI: Let me get an answer to your  
17 question, Senator. I don't know.

18 SENATOR ASHBURN: I'll make a motion to approve  
19 both of these nominees.

20 CHAIRMAN PERATA: Unlikely, but do you have  
21 anybody in the big crowd here? Do you have any family?

22 Okay, anybody who wants to come up and recommend  
23 yes or no? All right.

24 Thank you both for doing this. Thank you for  
25 being here.

26 Call the roll, please.

27 SECRETARY WEBB: Cedillo.

28 SENATOR CEDILLO: Aye.

1 SECRETARY WEBB: Cedillo Aye. Dutton.

2 SENATOR DUTTON: Aye.

3 SECRETARY WEBB: Dutton Aye. Padilla.

4 SENATOR PADILLA: Aye.

5 SECRETARY WEBB: Padilla Aye. Ashburn.

6 SENATOR ASHBURN: Aye.

7 SECRETARY WEBB: Ashburn Aye. Perata.

8 CHAIRMAN PERATA: Aye.

9 SECRETARY WEBB: Perata Aye. Five to zero.

10 CHAIRMAN PERATA: Congratulations. Good luck.

11 MR. CHARTON: Thank you very much. Appreciate

12 it.

13 MR. GALLIGANI: Thank you.

14 [Thereupon this portion of the  
15 Senate Rules Committee hearing  
16 was terminated at approximately  
17 3:25 P.M.]

18 --ooOoo--  
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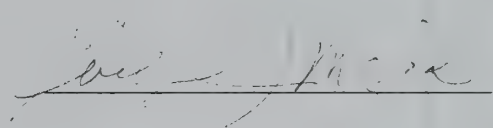
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16<sup>th</sup> day of February, 2007.

  
EVELYN J. MIZAK  
Shorthand Reporter

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## APPENDIX



**APPOINTEE**

**LYNN L. JACOBS**

DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective March 27, 2006

President, Ventura Affordable Homes, Inc.	1998—2005
President, Affordable Communities, Inc. and Ventura Communities, Inc.	1985—1998
Project Manager, Ramos/Jensen Company	1982—1985
Financial and Administrative Assistant, Ojai Land Company and Blue Goose Growers	1981—1982
Loan Officer/Assistant Manager, Wells Fargo Bank	1976—1981
Account Officer/Department Head, Citibank, Los Angeles	1971—1976
Administrative Assistant/Publications Director, LASPAU, Cambridge, MA	1968—1971
Bachelor of Arts, Romance Languages and Literature, Harvard University	

***DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS***

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**POSITION DESCRIPTION**

The Department of Housing and Community Development (1) administers housing finance, economic development, and rehabilitation programs; (2) proposes housing policy; (3) analyzes and implements building codes; and (4) enforces construction standards for manufactured homes.

**PROPOSITIONS 46 AND 1C**

Proposition 46 (SB 1227 [Burton], Chapter 26, Statutes of 2002), approved by the voters in 2002, provides \$2.1 billion in general obligation bond funds for 21 housing-related programs. All but \$344 million in Proposition 46 funds had been awarded by the end of 2006.

Proposition 46 includes approximately \$950 million for the multifamily housing program, to provide low-interest loans for housing developments serving low-income renters. The department took four years to obligate and commit these funds. The department required a higher level of replacement reserves for these multifamily rental projects than those required by private lenders or by similar state programs administered by the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee in the treasurer's office.

Proposition 1C (SB 1689 [Perata], Chapter 27, Statutes 2006), approved by the voters in 2006, authorizes the state to sell \$2.85 billion in general obligation bonds for 13 housing-related programs.

Proposition 1C creates the Affordable Housing Account and continuously appropriates \$1.3 billion from it to the department for a variety of programs, including \$345 million for the multifamily housing program, described above, and \$100 million for the affordable housing innovation program, to provide grants and loans for pilot projects that create and preserve affordable housing.

Proposition 1C also includes \$850 million for the regional planning, housing, and infill incentive program, to provide grants for park, water, sewer, transportation, and environmental cleanup projects to facilitate development in existing developed areas, and \$200 million for the housing



urban-suburban-and-rural parks program, to provide grants for housing-related parks. It requires the Legislature to appropriate these funds.

Finally, it also includes \$300 million for the transit-oriented development program, to provide grants and loans to encourage more dense development near transit. It gives the department authority to adopt guidelines for this program and requires the Legislature to appropriate these funds.

**Propositions 46 and 1C**

- 1. What lessons were learned from Proposition 46 that will change how you disburse Proposition 1C funds?**
- 2. When do you intend to issue the first notices of Proposition 1C fund availability for each of the programs?**
- 3. Over what period of time do you intend to commit the Proposition 1C funds for multifamily rental housing?**
- 4. Do you anticipate the same replacement reserve requirements for Proposition 1C multifamily funds as for Proposition 46 multifamily funds?**
- 5. What types of transit-oriented development projects do you envision funding? Do you intend to adopt guidelines for this program and, if so, when do you intend to adopt them and what do you anticipate the guidelines will be?**
- 6. What types of projects do you envision being financed with the innovative housing program funds? When will these funds be available? Will you fund in cycles or on an ongoing basis?**

\* \* \* \* \*

**HOMELESSNESS**

The department's strategic plan reports that 360,000 Californians were estimated to be homeless in 1997 and there are an estimated 80,000 to 95,000 homeless children in California, making the percentage of homeless children greater today than at any time since the Great Depression.

The department administers several homelessness assistance programs and is a member of the governor's Interagency Council on Homelessness, which is developing a 10-year state plan to end chronic homelessness. It also is studying homeless-family issues.

Low-income persons discharged from programs and institutions, such as prisons and mental-health treatment facilities, are often at a high risk of becoming homeless. The Senate Bipartisan Task Force on Homelessness in 2001 and the Interagency Task Force on Homelessness in 2002 recommended planning to assure that the 150,000 persons discharged each year from programs and institutions do not become homeless.

Those who incur severe disabilities and domestic-violence victims are often among the homeless population. According to a University of California, Irvine, and University of Connecticut evaluation of the Department of Mental Health's former Crime Victims with Disabilities Initiative, there are no domestic-violence shelters for victims with disabilities who are unable to perform the chores associated with shelter residency.

**Homelessness**

- 1. When will the interagency council release the 10-year plan to end chronic homelessness? To what extent will it cover family homelessness and the homelessness of unaccompanied minors? Absent the council's plans, what are your department's priorities for addressing homelessness?**

2. What steps, if any, are your department and the interagency council taking to assure adequate discharge planning? Please explain what actions the department takes, if any, to coordinate its activities with departments responsible for discharging inmates or patients?
3. What can the department do to help make shelters and transitional housing programs available to domestic-violence victims with disabilities?

\* \* \* \* \*

### **PRESERVATION OF EXISTING AFFORDABLE HOUSING**

According to the department's strategic plan, California faces the loss of government-assisted rental units that house more than 375,000 persons, because they are being converted to market-rate housing. The plan calls for new incentives to retain these affordable units. In many cases, preserving an existing affordable unit may be less expensive than building a new one.

#### **Preservation of Existing Affordable Housing**

1. What progress has your department made on preserving existing affordable units since adoption of the strategic plan? How does your department balance the priority of building new affordable housing with the priority of preserving existing units?

\* \* \* \* \*



**THE HOME PROGRAM**

The federal HOME program provides funds to 62 local agencies in California for a variety of rental and home-ownership programs, and to the Department of Housing and Community Development for the same programs in the rest of the state, principally in rural areas.

Based on cumulative totals since 1992, the U.S. Department of Housing and Urban Development (HUD) ranks California 37<sup>th</sup> among the 50 states and the District of Columbia in overall HOME program performance. According to HUD, California ranks 50<sup>th</sup> in the percentage of funds committed (78.8 percent) and 45<sup>th</sup> in the percentage of funds disbursed (74.6 percent). HUD has “red flagged” California for its low percentage of completed rental disbursements. Two previous Department of Housing and Community Development directors assured the Rules Committee that they were taking action to correct these deficiencies.

The department requires higher replacement reserves for projects funded by the HOME program than are required by private lenders or by the Tax Credit Allocation Committee or the California Debt Limit Allocation Committee in the treasurer’s office.

**The HOME Program**

- 1. Why does California continue to lag in committing and disbursing HOME funds, particularly for rental housing? What has been done to improve its performance? What else can be done?**
- 2. Why does your department require higher replacement reserves for HOME projects than are required by private lenders or the state programs in the treasurer's office?**

\* \* \* \* \*



**FARMWORKER HOUSING**

California's total farmworker population, including workers' children and other family members, is estimated at 900,000, while the approximately 1,000 licensed employee housing developments have capacity for only 23,000 persons, according to the department's 2005 Consolidated Plan. The plan states that, because of the inadequate housing stock and to avoid harassment, farmworker families often are forced to sleep in undeveloped canyons, fields, squatter camps, and back houses, with serious health and sanitation problems.

Despite these reported large numbers, the 12 counties where local agencies enforce the state employee-housing statutes reported only 391 employees living in 18 illegal facilities, according to the department's 2005 Housing Employee Program Statistical Summary. These 12 counties reported four complaints received, four illegal facilities inspections, three reinspections, no civil citations issued, and no cases referred to district attorneys. The department's report says resource constraints have reduced its ability to provide on-site technical assistance and continued on-site monitoring of the local enforcement agencies that have been deficient in their enforcement responsibilities.

In the balance of the state, where the department itself enforces these statutes, the department reported no employees housed in illegal facilities, no illegal facilities, no complaints received, no civil citations issued, and no cases referred to district attorneys.

**Farmworker Housing**

- 1. What actions have the department taken on the farmworker housing issue since the adoption of the strategic plan? What else can be done to address the issue?**

- 2. What is your evaluation of the Employee Housing Program's effectiveness in enforcing the laws intended to protect farmworkers and their families? How serious are the resource constraints and what, if any, plans do you have to correct them?**

\* \* \* \* \*

### **FEDERAL FUNDING**

Federal assistance programs historically have played a major role in providing affordable housing in California. Cuts and formula changes in programs, such as Section 8 vouchers, public housing funds, and community development block grants, have reduced that role. The 109<sup>th</sup> Congress adjourned without passing a HUD appropriations bill, so the new Congress must decide the housing program budgets and the Section 8 formula for both the current fiscal year and next year.

#### **Federal Funding**

- 1. What is your evaluation of how the HUD budget cuts and recent Section 8 formula changes have impacted California? What actions, if any, should California take as a result of these budget cuts and formula changes?**

\* \* \* \* \*

*Prepared by Greg deGiere*

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
OFFICE OF THE DIRECTOR**

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January 24, 2007

**Senate Rules Committ**

JAN 24 2007

**Appointment**

The Honorable Don Perata  
President Pro Tempore  
Chairman, Senate Rules Committee  
California Legislature  
State Capitol, Room 420  
Sacramento, CA 95814-4900

Subject: Director, Housing and Community Development

Dear Senator Perata:

Thank you for your January 11 letter and for giving me an opportunity to respond to questions of interest to the Senate Rules Committee. I look forward to meeting with you and the Rules Committee members next month to respond to any additional questions that you may have.

**Goals**

**1. *Please provide us with statement of goals. What do you hope to accomplish as Director of HCD? Please be specific.***

As I am sure you know the State's growing population requires us to add an average of 225,000 new homes per year in addition to the backlog of over one million housing units from past production shortfalls. The lack of sufficient housing for all income levels is a condition that affects California's workforce and their families, our economy, environment and quality of life. It also places extreme hardship on our neediest residents.

As Director of the Department of Housing and Community Development, and consistent with the Department's mission, it is my goal to increase the production of housing for all and to do so with urgency. To get more housing on the ground, I aim to make it easier for local governments to approve housing and for builders to build it. Working with you and consulting with all department stakeholders, specific objectives and strategies include:

- Effective and efficient administration and expenditure of Proposition 1C housing and infrastructure funds.
- Development of policies that make it easier for local governments to achieve timely compliance with their mandated housing and land use elements and reward communities that both plan for and permit housing for all. This includes providing model housing elements for use by localities to reduce costs and allow



them to move from planning for housing to approving it more quickly as well as supporting and rewarding good performance in State programs. The Department will meet regularly with local governments, non-profit and for-profit builders, community groups and colleagues in State government to ensure everyone is well-informed of all State incentives and laws that enable the efficient provision of housing for all our residents.

- Work with housing stakeholders, the Legislature and the public to secure a permanent ongoing funding source for State and local affordable housing programs. The Department is extremely grateful to the Legislature, the Governor and the voters for their support of past and recent housing bonds, but an adequate continuing funding mechanism is still needed.
- Strengthen and continue efforts to prevent and address homelessness in our State, including working as a member of the Governor's Interagency Council on Homelessness and increasing the supply of rental housing for the homeless.
- Continue public education in support of housing for all through government, community groups, schools and public service announcements.

Another key part of our mission is to ensure economic development opportunities for all communities. The Department will continue to work with local jurisdictions to help them effectively use their Community Development Block Grant Funds. I will continue to publicize and refine the Enterprise Zone Program so each of the 42 zones has a successful unified economic development strategy, and helps local businesses take full advantage of the tax and hiring benefits of the local enterprise zone. We will meet quarterly throughout the State with businesses and administrators of zones so they are aware of all of the benefits and requirements of the Enterprise Zone Program.

## **Proposition 1C**

**Proposition 1C, as approved by the voters in 2006, authorizes the state to sell \$2.9 billion in general obligation bonds for housing and homeless assistance programs.**

- 2. Please summarize your plans and timelines for getting these funds to the intended housing programs throughout the state. When do you intend to issue the first notices of fund availability for each of the programs?***

Three notices of funding availability (NOFAs) for Proposition 1C have already been issued, the first one in December, and three more will be released before the end of January. For existing programs that were again funded in Proposition 1C, HCD is



following the NOFA schedule and award cycles that worked well for Proposition 46. Remaining NOFAs for existing programs and programs not requiring legislation will be issued in the spring and summer. I have included a copy of our planned NOFA Schedule with this letter.

- 3. HCD took four years to obligate and commit approximately \$950 million in Proposition 46 bond funds for multifamily rental housing projects. Over what period of time to you intend to commit the \$345 million available for multifamily rental housing projects under Proposition 1C?**

Available funding allows for five multifamily rental housing NOFAs over a two and one-half year period. The first awards will be made this summer and all funds should be committed by the end of 2008-09.

- 4. What types of projects do you envision the Transit-Oriented Development (TOD) Account will fund? Do you intend to adopt guidelines for this program, and if so, when do you intend to adopt them and what do you anticipate the guidelines will be?**

The TOD program will make loans for mixed-income and affordable housing within a quarter mile of transit stations and infrastructure grants to promote the development of higher density housing within close proximity to transit stations. Housing developments funded could include homeownership units in a mixed use project as well as apartment homes. Infrastructure grants could be awarded to expand existing water and sewer systems, pedestrian and bike path improvements, or necessary transit improvements, depending on the development.

The Department anticipates adopting guidelines for the TOD program by the summer of 2007 after soliciting input from stakeholders. The guidelines will define eligibility criteria for the loans and grants as well as application and administration requirements, based upon standards established by the statute, and in consideration of other existing TOD programs, input from stakeholders and other State Departments including Caltrans, and the Department's experience with related programs. The Department has conducted significant research and met with Caltrans and numerous stakeholders such as housing developers and housing agencies. The Department's first Stakeholder meeting is planned for January 25, 2007 at the Los Angeles Housing Department.

- 5. Proposition 1C also includes \$100 million for innovative housing programs. Please summarize the criteria and types of projects you envision being financed with these funds. When will these funds be available? Will you fund in cycles or on an ongoing basis?**

The Administration is considering several legislative concepts for this program including components that will reduce insurance costs paid by affordable attached housing development, encourage the use of surplus infill school properties for development of housing for teachers and other school employees and expand the use of green and sustainable building technologies, universal design and accessibility in affordable housing.

If legislation is enacted by late summer or early fall 2007, it will be our intent to make these funds available beginning in January 2008. Additional administrative details, such as whether to use NOFA rounds or ongoing over the counter method will be determined in consultation with stakeholders. The Department looks forward to working with the Legislature on the details of this exciting program.

## **Proposition 46**

**This measure, approved by the voters in 2002, provided housing bond funds to be administered by HCD, including approximately \$950 million in multifamily rental housing funds.**

**6. *Were lessons learned through the administration of Proposition 46 funds that will affect the commitment and disbursement of Prop. 1C funds? Specifically, what will you do differently in administering Prop. 1C funds?***

Many lessons were learned during the administration of the Proposition 46 funds, and programmatic adjustments were made on an ongoing basis to address them. Throughout the administration of Proposition 46, the Department worked with stakeholders on improving the application process and looked for ways to make the loan closings a smoother, less stressful process. Constantly making these kinds of process improvements is critical, both for program users and for Department staff. Recently, the Department was able to significantly simplify what had previously been a difficult interim step by negotiating with construction lenders for a simplified tri-party agreement at the time of the construction loans which is estimated to reduce processing work by 20 percent for both HCD's staff and the staff of Borrowers.

Another critical improvement made during the four years of Proposition 46 administration was the development of consistent and predictable underwriting standards for multifamily housing. HCD promulgated a set of Uniform Multifamily Regulations which provide underwriting standards for the Multifamily Housing Program (MHP); the Joe Serna Jr. Farmworker Housing Grant Program; and HOME multifamily loans. Through these standards, HCD staff and HCD's borrowers have clear guidelines about critical terms common to all multifamily projects. In addition,



HCD worked with the California Housing Finance Agency and the Tax Credit Allocation Committee to develop a universal application form for multifamily rental programs. Beginning with the first round of Proposition 1C NOFAs, HCD is using the universal application for all its rental programs.

The Department's record of success in administering Proposition 46 funds lays a strong foundation for the effective and efficient award of Proposition 1C resources. While these programs are operating well, some of the adjustments we want to make are:

- In the highly competitive MHP program, the Department wants to consider tie-breaker criteria that reward projects proposing to meet important statewide goals – such as projects that will be giving priorities to serving the homeless; using green building and energy efficient standards; and/or universal design features. We also recognize that while the largest percentage of the state's homeless and lowest income people live in Los Angeles County, the southern California region has not competed as well as we'd like to see. The Department has already made adjustments to allow greater per-unit loan limits, and will keep a close eye on this as the Proposition 1C funding is allocated. We are prepared to make further adjustments as needed. Along similar lines, the Department is increasing the per unit loan limits for projects in the Central Valley to help the financial feasibility of projects in these low-income communities.
- Project sponsors will be required to solicit and report information regarding the numbers of seniors and veterans occupying projects to demonstrate serving these populations.
- In the Supportive Housing Program – which serves those with disabilities who are homeless or at risk of homelessness – we've learned that the majority of the funded projects serve the at-risk population rather than the actual homeless populations. HCD staff has made programmatic adjustments to provide incentives to projects that dedicate at least 30% of the units to serving the homeless disabled population rather than such a predominance of at-risk.
- In the Serna Farmworker Rental Program, the Department had concerns that the dynamic of funding in conjunction with tax-credits had the unexpected outcome of producing, perhaps, fewer units targeted for extremely low-income farmworkers. So, HCD is examining ways that can either require or encourage a percentage of units targeted to be targeted for extremely low-income farmworkers, but we must take care to ensure that we do not create a requirement that makes the construction of farmworker rental projects financially impossible.

**7. Why did HCD require a higher level of replacement reserves for Prop. 46 multifamily rental projects than those required by similar state programs administered by the Treasurer through the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee or conventional lenders such as private banks? Do you anticipate the same requirement for Prop. 1C multifamily funds?**

HCD's role as a lender is significantly different than the role served by the Treasurer's programs. The tax credits and the bond authority authorized by the Treasurer's Office provides critical state and federal tax incentives and private activity bond authority to projects but do not directly invest state funds in these projects. The primary mechanism for enforcement in these programs is the potential risk of adverse federal tax consequences.

HCD, on the other hand, directly loans funds authorized through general obligation bonds. These are state dollars for which the state has a direct repayment responsibility. In exchange for receiving these loan funds, project sponsors commit to a 55-year regulatory agreement which HCD is statutorily obligated to enforce. The benefit to the State is that safe, decent and affordable housing will be provided to low income households during that period. HCD has an active and ongoing monitoring responsibility and program to ensure this benefit is realized. This is different from private lenders, whose sole responsibility is to ensure the repayment of the loans, which are typically no longer than 15 years.

HCD's experience as a direct lender is that adequate replacement reserves are critical to the long-term health of the project. Where reserves have been inadequately funded the continued use of these projects as affordable rental projects may be jeopardized. Without adequate long-term planning projects frequently are poorly maintained and their sponsors come to HCD seeking additional funds to make critical repairs necessary for the continued safety of the occupants. HCD takes its long-term monitoring role seriously as it does its responsibility to ensure that the voters received the long-term benefit for which they have generously authorized the use of general obligation bonds. Therefore, we believe that our reserve requirements are appropriate.

**8. Please provide data for the multifamily rental housing funds made available through Proposition 46, including number of projects funded, total number of units assisted, total amount of funds disbursed to borrowers to date, total amount of funds Undisbursed to date, total number of projects that have defaulted or are deemed to be in default, and number of projects foreclosed on by HCD, if any.**



The MHP program, including the General and Supportive Housing components, has awarded funds to 326 rental housing developments to produce 14,540 apartment homes. These are permanent loans, disbursed at the loan closing. To date, 2,811 units, about 20%, are occupied with additional units coming on line each month. This is roughly where we expected to be at this time, given that the average time from award of funds to loan closing and occupancy is about 36 months, and the first Proposition 46 awards were made in June of 2003. As of December 31, 2006, HCD had awarded a total of \$874 million through these programs and disbursed over \$147 million. There have been no defaults or foreclosures.

## **Homelessness**

**The Governor's Interagency Council on Homelessness, which includes your department, is developing a 10-year state plan to end chronic homelessness. It also is studying homeless-family issues.**

**9. *When will the interagency council release the plan? To what extent will it cover family homelessness and the homelessness of unaccompanied minors? Absent the council's plans, what are HCD's priorities for addressing homelessness?***

The initial draft of the 10-Year Action Plan to Substantially Reduce Chronic Homelessness was presented to the Governor's Interagency Council on Homelessness for review on September 22, 2006. The Council recommended a number of adjustments to the form and content of the draft, the plan was then redrafted and is now under review.

A decision was made early in the Action Plan development process that California's chronic homelessness definition would include individuals and families currently homeless or at risk of homelessness. The Action Plan is specifically focused on those who are at risk of chronic homelessness or are chronically homeless. In addition, a broader Family Homelessness planning process is being conducted by the Department of Health and Human Services. HCD is an active participant in both efforts.

Earlier in this letter, I have expressed my personal commitment to addressing homelessness as a member of the Council and through HCD's policies and programs. Through Proposition 46, HCD awarded funds to develop over 10,400 homeless shelter spaces and 14,540 affordable rental housing opportunities. In addition, as described above, we are proposing incentives to increase the number of affordable multifamily and supportive housing units available to homeless.

HCD will also continue to address homelessness through the effective administration of State housing element law that requires each local government to identify and analyze the needs of homeless persons and families and also identify land or sites where emergency shelters and transitional housing may be developed, and reduce regulating barriers to the development of shelters and housing for the homeless and those at risk of homelessness.

While the housing element provides a unique, and powerful tool to provide shelter, housing and services for the homeless, in the Department's experience it is not effectively implemented uniformly across the State. The Department plans to improve its technical assistance resources to ensure more effective implementation.

**Low-income persons discharged from programs and institutions, such as prisons and mental-health treatment facilities, are often at a high risk of becoming homeless.**

***10. What steps, if any, are HCD and the interagency council taking to address this problem? Does HCD coordinate its activities with departments responsible for discharging inmates or patients?***

This is one of the consensus concerns identified in the draft Chronic Homelessness Action Plan and recommendations have been made regarding appropriate discharge planning processes to address this issue. I intend to remain engaged in the interagency council and work with my colleagues on implementation. In addition, HCD homeless programs staff routinely participate with regional homeless organizations consisting of leaders of local continua of care, including the NORCAL Homeless Roundtable and the Bay Area Regional Steering Committee on Homelessness and Housing to address the issues surrounding discharge planning and homeless prevention. Participants include representatives of law enforcement mental health and the State Department of Corrections in addition to HCD.

***Those who incur a severe disability and domestic-violence victims are often among the homeless population. According to a 2004 evaluation, there were no domestic-violence shelters for victims who have disabilities that render them unable to perform the chores typically required of shelter residents.***

***11. Has HCD acted to help make shelters and transitional housing programs available to domestic violence victims with disabilities? What can it do?***

The whole purpose of Emergency Housing Capital Development (EHAP-CD) is to provide funding for acquisition, construction and /or rehabilitation of facilities that are used for emergency shelter and/or transitional housing. As such, this funding can and is frequently used to improve accessibility for the physically disabled. New



construction routinely includes funding for accessibility and perhaps as much of a third of the funds go for rehabilitation of existing facilities, where accessibility improvements are often most necessary. In that regard, the EHAP-CD program has substantially improved the physical condition of shelter facilities throughout the State, and will continue to do so in the foreseeable future.

The question also speaks to the availability of shelters and/or transitional housing specifically for disabled victims of domestic violence – including specific facilities and/or rules for occupancy by the disabled victims of domestic violence. While there are facilities that target victims of domestic violence, the Department is unaware of any specific need or effort on the part of service providers to seek funding for facilities exclusively for the disabled. Typically, to the extent they are able, shelter facility clients are required to perform chores in support of the facilities in which they live. However, to the best of our knowledge, those chores are compatible with their physical abilities and take into account any temporary or long-term disabilities. The Department is unaware of any reports that EHAP-CD funded facilities have required clients to perform chores in defiance of disabilities they may have.

Lastly, it should be noted that discrimination on the basis of disability is illegal under a variety of State and Federal laws, and the EHAP-CD program is ever-vigilant to ensure that shelter operators receiving EHAP-CD funding meet applicable laws. To the best of our knowledge, EHAP-CD facilities seek to serve disabled clients as openly as they serve anyone.

### **Preservation of Existing Affordable Housing**

According to the department's strategic plan, California faces the loss of government-assisted rental units that house more than 375,000 persons because they are being converted to market-rate housing. The plan calls for new incentives to retain these affordable units. In many cases, preserving an existing affordable unit may be less expensive than building a new one.

***12. Please summarize what progress the department has made toward the preservation of existing affordable units. How do you balance the priority of building new affordable housing with the priority of preserving the existing units?***

As of December 2006, the Proposition 46 MHP program has rehabilitated 1,951 units of which 1,093 represent "preserved" units of the existing affordable rental stock.

In addition to the preservation projects funded through the MHP program, HCD has devoted significant effort this year in working with stakeholders to find workable solutions to preserving the oldest housing developments in HCD's own portfolio which are reaching the end of their regulatory agreements and the maximum authorized length of the loans. Loans made under the Deferred Payment Rehabilitation Loan Program (38 projects, 1,167 units); the Special Users Housing Rehabilitation Loan Program (60 projects, 1,904 units); and the original Rental Housing Construction Program (49 projects, 1,344 units) are all nearing their 30<sup>th</sup> year.

Without some solution, most of these loans will be due and payable over the next 4-6 years. Should the loans be repaid, these hard-earned affordable units will be lost. The money would be repaid to HCD, and re-loaned in the future through the MHP program. However, with today's significantly higher construction costs it will be a poor bargain for the state. So, HCD is working with its stakeholders towards a solution that will allow, but not require, these loans to remain in the projects as MHP loans with a new 55-year regulatory agreement.

The Department has also had success in assisting in the preservation of existing affordable housing through its statutorily mandated administration of the preservation requirements of housing element law which require local governments to inventory subsidized housing at risk of converting to market rate and include programs to assist in preserving at risk units. The Department's review of local housing elements ensures that all at-risk units are identified and that local governments include adequate programs and policies to preserve this critical housing.

In addition, HCD provides technical assistance to promote compliance with notice requirements of state law. The Department has prepared and distributed model forms for owners of affordable housing to use when providing notice of intent to prepay or opt-out of subsidized contracts. The model forms also provide critical information to residents of subsidized housing about their rights. The Department is also required to receive copies of owner prepayment or opt-out notices and upon request has reviewed for compliance with preservation notice requirements. Finally, HCD maintains an online preservation clearinghouse including an updated list of entities qualified to purchase housing at risk of prepayment or opt-out, copies of notices of intent to prepay, and other critical resource information to assist in the preservation of at-risk affordable housing.

**13. *Given the challenge of preserving sufficient housing as affordable, how would you propose Prop. 1C funds meet this challenge, particularly with respect to the \$100 million in innovative housing funds?***



As described earlier in this letter, the Administration is not considering a preservation proposal at this time. However, the Department will continue to work to facilitate housing preservation as outlined in the response to Question 12. The Department fully recognizes that in most cases it is more cost-efficient to rehabilitate and save existing affordable units, where feasible, than build new ones. Of course, housing preservation projects are free to compete for MHP funds. It is, however, a very tough competition.

### **The HOME Program**

***The federal HOME program provides funds to 62 local agencies in California for a variety of rental and home-ownership programs and to your department for the same programs in the rest of the state, principally in rural areas.***

***Based on cumulative totals since 1992, the U.S. Department of Housing and Urban Development (HUD) ranks California 37<sup>th</sup> among the 50 states and the District of Columbia in overall HOME program performance. According to HUD, California ranks 50<sup>th</sup> in the percentage of funds committed (78.8 percent) and 45<sup>th</sup> in the percentage of funds disbursed (74.6 percent). HUD has "red flagged" California for its low percentage of completed rental disbursements. Your two predecessors assured for the Senate that they were taking action to correct these deficiencies, but the problems remain.***

***14. Why does California continue to lag in committing and disbursing HOME funds, particularly for rental housing? What specific corrective actions have you taken to improve its performance?***

The California State HOME Program, based on its Consolidated Plan and as a strategy to reduce homelessness, focuses on the development of affordable rental housing. Primarily as a result of this valid policy focus, the State HOME Program is, in fact, ranked low in three HUD "Snapshot" ranking factors which relate to rapid disbursement of funds. However, the State HOME Program is ranked close to the middle on the five other individual factors, and most important, ranked #37 overall. California's overall ranking of #37 is better than four other very large state HOME programs: Texas, Ohio, Pennsylvania, and Florida. California's annual allocation is the second largest among state HOME programs. The larger state HOME programs tend to score lower than the smaller states because it is much more difficult to commit, disburse, and track the much larger annual allocations which are up to 20 times larger than the allocations for smaller states. The ten highest ranked states are Vermont, North Dakota, Massachusetts, Montana, Idaho, Rhode Island, South Dakota, Iowa, Indiana, and Nevada.

The State HOME Program is steadily improving the underlying measurements which are the basis of the "Snapshot" rankings. California's cumulative disbursement rate has increased from 66% on June 30, 2003 to 75% on September 30, 2006. This increase, of 9%, is very significant considering that it is a measurement of the disbursement rate for the State's entire \$663 million allocation. With such a large allocation, it takes years to improve the cumulative rate. It is more instructive to compare the expenditure amounts for the last four calendar years, 2003 through 2006 (to date): \$34 million, \$69 million, \$57 million, \$59 million. To put this in perspective, in the last 3 years we have increased our average annual awards to almost \$62 million.

The red flag item, "% of Completed Rental Disbursements to all Rental Commitments", is one that has improved significantly, from 53% at the end of 2003 to 79% on September 30, 2006. This is a complicated factor that measures, among other things, the degree to which rental project sponsors file their required "Project Completion Report". The Department has taken steps to get these reports faster. This factor also measures how quickly funds are spent on rental projects. In California, most HOME rental funds are used for 4% bond/tax credit projects, which by nature, use HOME funds very slowly. On average, these rental projects require about 36 months to complete construction after the award is made.

So, in the Department's view, and as promised by my predecessors, HOME has made significant improvements in its programs. When it comes to the development of affordable rental housing in California, a top priority, the Department must take into account that normal project completion timelines exceed HUD's performance targets.

***15. Why does HCD require a higher level of replacement reserves for projects funded by the HOME program than those funded by conventional lenders such as private banks or state programs operated by the California Tax Credit Allocation Committee and the California Debt Limit Allocation Committee?***

Please see the response given to question number 7.

**Farmworker Housing**

***The department's strategic plan identifies serious health and sanitation problems in the state's small and diminishing stock of housing for farmworkers and their families. The plan states that, because of the inadequate housing stock, farmworkers often are forced to sleep in undeveloped canyons, fields, and squatter camps.***



**16. Please summarize the department's action on the farmworker housing issue since the adoption of the strategic plan, any plans you have to address the issue, including any recommendations for additional legislation.**

HCD has worked diligently to increase the supply of farmworker housing. Through Proposition 46, the Joe Serna Jr. Farmworker Housing Grant program provided over 6,900 units serving the needs of farmworkers and their families. These include 790 units which will serve migratory workers. HCD also funded the Farmworker Health/Housing set-aside to provide on-site health services to farmworkers and their families.

Areas for planned improvements are described above in the response to questions #6, including the goal of ensuring that a significant portion of the funds that will be made available through Proposition 1C serves the needs of extremely low-income farmworkers. HCD will be making adjustments to this portion of the program in order to better achieve this goal. Potential adjustments requiring legislation are under consideration, and we will discuss these when they are approved by the Administration.

Finally, HCD continues to operate 25 Office of Migrant Services (OMS) family housing centers which provide 1,885 units of decent, safe and affordable rental units for migrant farmworkers and their families and remains committed to the preservation of this housing resource.

***The department's 2005 Housing Employee Program Statistical Summary states that, in the 12 counties where local agencies enforce the employee-housing statutes, the counties reported only 391 employees were living in 18 illegal facilities and there were four complaints received, four illegal facilities inspections, three re-inspections, no civil citations issued, and no cases referred to district attorneys. The department's report says resource constraints have reduced its ability to provide on-site technical assistance and continued on-site monitoring of the local enforcement agencies that have been deficient in their enforcement responsibilities.***

***The department enforces these statutes in the balance of the state. In these areas, the report finds no employees housed in illegal facilities, no illegal facilities, no complaints received, no civil citations issued, and no cases referred to district attorneys.***

**17. Please provide a brief evaluation of the Employee Housing Program's effectiveness in enforcing the laws intended to protect farmworkers and their families. Do the local agencies, despite lack of assistance and monitoring, appear to be doing a more thorough job of enforcement than the department**

***because they have made inspections and issued citations? Does the lack of citations issued by the state constitute a lack of enforcement or better compliance? How serious are the resource constraints and what, if any, plans do you have to correct them?***

As required by law, the HCD Employee Housing Program performs on-site inspections of every employee housing facility within its jurisdiction at least once every two years (depending on performance of the facility) and annually monitors the work of the local enforcement agencies that carry out inspections within their jurisdictions. Existing law allows counties to elect whether to enforce the Employee Housing Act and requires HCD to enforce the act where local jurisdictions do not. Currently only 11 local agencies (counties) are enforcing the act, while 139 jurisdictions are under HCD oversight.

HCD has annually monitored all employee housing local enforcement agencies and reported the results of these efforts as well as corrective actions to the Legislature in the annual report. In general, where HCD identifies deficiencies in enforcement, local agencies have corrected them. HCD also provides training as deficiencies are identified to help local agencies improve performance. Notwithstanding these efforts, HCD was recently compelled to take back enforcement from San Benito County due to its failure to address deficiencies in its programs. In addition, in the last several years, both Orange County and Riverside County have returned jurisdiction to HCD.

HCD and local enforcement agencies perform the same types of inspections with regard to thoroughness. Permitted facilities that are continuing to operate and are familiar with State requirements often do not have a high number of violations. The lack of issuance of citations can mean that operators are complying with the law or that violations are corrected before a citation is needed. On the other hand, a few local agencies have been able to increase resources for inspections and search out non-permitted employee housing facilities with significant violations, as well as perform re-inspections after the season has begun. This higher level of effort can result in the identification and correction of more violations.

The HCD budget includes the equivalent of 7 positions and \$1.236 million for the employee housing program. There are no proposals to increase program resources.

## **Federal Funding**

**Federal assistance programs historically have played a major role in providing affordable housing in California. Cuts and formula changes in programs such as Section 8 vouchers, public housing funds, and community development block**



grants have reduced that role. The 109<sup>th</sup> Congress adjourned without passing a HUD appropriations bill, so the new Congress must decide the housing program budgets and the Section 8 formula for both the current fiscal year and next year.

**18. Please provide a brief evaluation of how the HUD budget cuts and recent Section 8 formula changes have impacted California. What actions, if any, should California take as a result of these budget cuts and formula changes?**

Our best and most recent information comes from the November 2006 update from the Center on Budget and Policy Priorities in Washington D.C. According to the Center, since 2004, 7,627 vouchers have been reduced in California since 2004. At the time the Center's analysis was prepared, there were three bills pending proposing formula changes to the Housing Choice voucher program. All of these bills were not enacted.

HCD works closely with the Governor's Washington D.C. Office on these and other housing issues and it is our understanding that Congress plans to pass a Joint Funding Resolution by February 15 that will set funding levels for HUD programs at the same levels at federal fiscal year 2006. We will continue to monitor the federal budget closely, confer with stakeholders statewide and work with the Governor's Washington office to make sure members of Congress receive timely information regarding housing issues.

Should you have any other questions or issues you would like to discuss, please do not hesitate to contact me.

Very truly yours,



Lynn L. Jacobs  
Director

Enclosures

cc: Senate Rules Committee:  
Senator Cedillo  
Senator Padilla  
Senator Ashburn  
Senator Dutton

Christopher Kahn, Legislative Secretary

# NOTICE OF FUNDS AVAILABILITY

## Homeownership Programs

CalHome  
Self-Help Housing Program  
California Homeownership Program (BEGIN)

California Homebuyers Downpayment  
Assistance Program

Residential Development Loan Program

Affordable Housing Innovation Fund \*

## Multifamily Rental Housing Programs

Multifamily Housing Program - General  
Multifamily Housing - Supportive Housing  
Multifamily Housing for Homeless Youths

## Other Programs

Serna Farmworker - Rental  
Serna Single Family

Emergency Housing Assistance \*\*  
Infill Incentives Grant \*

Transit Oriented Development

Housing Urban-Suburban-and-Rural Parks \*

Number of NOFAs	Amt of NOFAs	Date of first NOFA	Number of NOFAs per year
5	\$55,000,000	Jan, 2007	1
3	\$3,000,000	Jan, 2007	1
3	\$40,000,000	Mar, 2007	1
	\$15,000,000 - \$30,000,000	Not applicable	Funds continuously available to borrowers
	\$15,000,000 - \$30,000,000	Not applicable	Funds continuously available to borrowers
4	\$ 25,000,000	Jan, 2008	1
5	\$70,000,000	Jan, 2007	2
5	\$37,000,000	Jan, 2007	2
2	\$24,000,000	Jan, 2007	1
3	\$33,000,000	March, 2007	1
3	\$10,000,000	Dec 28, 2006	1
2	\$10,000,000	Nov, 2007	1
5	\$100,000,000 - \$200,000,000	Jan, 2008	1
3	\$95,000,000	Summer, 2007	1
5	\$30,000,000 - \$40,000,000	Jan, 2008	1

## NOTES:

\* New program, subject to legislation.

\*\* The EHAP 2007-08 NOFA will also include remaining Prop 46 funds.



**APPOINTEE**

**CHAD CHARTON**

MEMBER, STUDENT AID COMMISSION

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective August 28, 2006

**Educational Experience:**

Board Member, California State Student Association	2005—2006
Associated Students Inc., California State University, Northridge	
Chairman, President and Chief Executive Officer	2005—2006
Director of Finance, Chief Financial Officer	2004—2005
Member, Board of Directors	2004
Director of Disabled Students	2002—2003
2005 Horizons Summer Intern, Sigma Chi Foundation, Inc.	2005—2006
Board Member, Consumer for Cable Choice	2006—Present

**Work Experience:**

Executive Marketing Associate,	
FMS Financial Partners, Inc.	2002—Present
Vice President, Jump N' Bounce, Chatsworth	1999—2002
Candidate, Bachelor of Science, Business Administration,	
California State University, Northridge	

***DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS***

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**APPOINTEE**

**DENNIS GALLIGANI, Ph.D.**  
 MEMBER, STUDENT AID COMMISSION

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective October 28, 2006  
 Executive Director, Alliance for Regional Collaboration  
     to Heighten Educational Success 2005—Present

University of California, Office of the President  
     Associate Vice President, Emeritus 2005  
     Associate/Assistant Vice President,  
         Student Academic Services 1990—2005

University of California, Irvine  
     Assistant Vice Chancellor,  
         Academic Affairs and Registrar 1982—1990  
     Lecturer, Graduate School of Management 1979—1990  
     Special Associate, Academic Affairs 1978—1982  
     Special Assistant to Vice Chancellor,  
         University and Student Affairs 1977—1978  
     Director of Grants, Studies, and Research,  
         University and Student Affairs 1975—1977

UCLA Graduate School of Management,  
     Teaching Assistant 1974—1975  
     Post-graduate researcher 1973—1975

Quincy College  
     Lecturer, Department of Education 1972—1973  
     Assistant Dean of Students 1970—1973  
     Head Resident 1970

Lieutenant, United States Navy 1966—1969

Bachelor of Science, Business Administration, Quincy College  
 Master of Science, College Student Personnel, Western Illinois University  
 Ph.D., Education, University of California, Los Angeles





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**APPOINTEE**

**ALICE D. PEREZ**

MEMBER, STUDENT AID COMMISSION

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective May 19, 2006

Sacramento Municipal Utility District,

Manager, Residential Services

2006—Present

U.S. Bank

Hispanic Market Manager and

Director of Multicultural Markets

2000—2006

Retail Market Manager

1998—2000

Branch Manager, Sacramento

1996—1998

Branch Manager, Rancho Cordova

1995—1996

Wells Fargo Bank, Branch Manager, Rancho Cordova

1993—1995

Bachelor of Science, Business Administration,

California State University, Sacramento

**POSITION DESCRIPTION**

The California Student Aid Commission is the principal state agency responsible for administering state and federal financial aid programs for students attending public and private colleges and vocational schools in California. The commission administers the state Cal Grant Program and the federal Family Education Loan Program – two of the largest financial aid programs available to California students.

In 1979 the commission became California's designated guaranty agency to administer the federal student loan program. In 1996 the commission was granted statutory authority to create EdFUND as a nonprofit auxiliary entity to provide operational and administrative services for the student loan program.

The commission is composed of 15 members who generally serve for four years. The governor appoints 11 commissioners who are subject to confirmation by the Senate. The speaker of the Assembly and the Senate Rules Committee each appoint two commissioners.

**RISING COSTS OF ATTENDING COLLEGE**

Over the years, student fee levels have fluctuated significantly, making it difficult for students and families to anticipate and plan for paying college costs. Annual fee volatility has mirrored the economic condition of the state. During good economic times, the state tends to roll back or hold fees constant. During bad economic times, the state frequently increases fees to backfill budget cuts to the systems of higher education. The state currently does not have a formal student fee policy guiding how student fees are set.

In the current budget year the governor and Legislature held fees constant for the University of California (UC) and California State University (CSU), and rolled fees back from \$26 per semester unit to \$20, effective spring 2007 for community college students. However, the governor's proposed 2007-08 budget raises annual student fees by 7 percent from \$6,852 to \$7,347 for UC students and 10 percent from \$3,199 to \$3,451 for CSU students. His proposed budget does not raise fees for students attending a community college.

Even with the proposed increases, California's public colleges and universities' fees are considered low in relation to comparable institutions around the country. Nevertheless, college affordability is still a major concern for students and families. One reason is the non-fee costs associated with attending college. According to a forthcoming report by the National Center for Public Policy and Higher Education, for example, textbook costs for California community college students are roughly equal to what a full-time student pays in annual fees. The cost of educational books and supplies has increased by 31.3 percent between 2000 and 2005, more than twice the overall consumer inflation rate as measured by the U.S. Consumer Price Index. By comparison, the Student Aid Commission budget allowance for books and supplies has grown by only 11 percent during this five-year period.

In response to the growing concern regarding college costs, legislation has been introduced this year in the Assembly which would allow the purchase of units of college tuition now for future use. Prices would be pegged to the University of California's fees, and units could be redeemed at public or private colleges nationwide. Patterned after a program in Washington state, the measure is intended to be self-sustaining, with the state reinvesting money to earn returns adequate to meet commitments, regardless of future tuition increases.

### **Rising Costs of Attending College**

- 1. Should the commission be advocating for a statewide student fee policy? If so, what are the key elements of such a policy?**
- 2. What, specifically, is the commission doing to address the rising costs of non-fee-related expenses? What policy changes might the commission consider in response to this growing need?**



3. How does the commission determine the student allowance for books, supplies, and other living expenses associated with attending college? Has the budget allowance kept pace with the growth of the Consumer Price Index? How often does the commission increase the student budget allowance?
4. Does the student budget allowance take into account the different costs of living in various parts of the state?

\* \* \* \* \*

### **FEDERAL FOCUS ON COLLEGE AFFORDABILITY**

There also is growing concern at the national level regarding the increasing cost of attending college. Student loan debt is increasing and students are working more to make ends meet.

Among its very first actions in January, the U.S. House of Representatives approved H.R. 5, the College Student Relief Act of 2007. The bill would phase-in cuts over five years in the interest rate charged undergraduate student borrowers under the Federal Family Education Loan and Direct Loan programs, reducing the rate from 6.8 percent in July 2006 to 3.4 percent in July 2011. The bill would offset the costs associated with it by reducing insurance provided to lenders on defaulted loans and impose new fees on lenders making consolidation loans.

All students must complete the Free Application for Federal Aid to be considered for federal financial aid. The form's length and complexity discourages many students from completing it, thereby precluding eligible students from accessing federal financial aid resources. Congress is considering ways to streamline the application process as a means of increasing participation in federal financial aid programs.



**Federal Focus on College Affordability**

1. What is the commission doing to influence federal financial aid policies?
2. What can be done at the federal level to streamline completion and submission of the Free Application for Federal Aid in such a way that benefits California students?
3. What is the commission doing to increase the total amount of federal financial aid that California students receive?

\* \* \* \* \*

**FUTURE OF STATE FINANCIAL AID PROGRAMS**

The commission administers the state's Cal Grant program and several other specialized financial aid programs to help undergraduate and graduate students pay for college.

**CAL GRANT ENTITLEMENT AND COMPETITIVE PROGRAMS**

The Cal Grant program was revised and expanded in 2001 to offer both a Cal Grant Entitlement and a Cal Grant Competitive program. The entitlement program guarantees students a Cal Grant award if, within a year of graduating from high school, the student applies for a Cal Grant and meets financial, academic, and general program eligibility requirements. Entitlement awards are also guaranteed to community college transfer students under the age of 24 if they, too, meet specified income and academic requirements.

Since the inception of the program, the number of Cal Grant entitlement recipients has increased 26 percent, from 48,417 students in 2001-02 to 65,378 students in 2005-06. Today, the average Cal Grant entitlement student comes from a family with an average annual income of \$27,722, is 18-years old, has a GPA of 3.08, and comes from a family size of 4.2.

The competitive program is designed for college students who have been out of high school for more than one year. These students may compete for

22,500 Cal Grant competitive awards, if they meet the income and academic requirements.

For the 2005-06 academic year, 135,900 students met the eligibility requirements for the Cal Grant competitive awards. However, only 17 percent of eligible applicants actually received one. More than 112,000 qualified students remained unserved. Today, the average Competitive Cal Grant student has an annual family income of \$14,762, is 31-years old, has an average GPA of 3.29, and comes from a family size of 2.5.

### CAL GRANT C

The commission also administers the Cal Grant C program, which provides a \$576 award to students pursuing a vocational education. However, this program has received little attention and no new funding for the past several years.

### LOAN ASSUMPTION PROGRAMS

Finally, the commission administers several loan assumption programs. One program, the Assumption Program of Loans for Education (APLE), allows the state to issue agreements for loan assumptions up to \$11,000 annually for students training to become teachers. Another program, the State Nursing Assumption Program of Loans for Education (SNAPLE), allows the state to issue agreements for loan assumptions to persons who have taught college-level nursing studies for at least one academic year. These individuals can receive up to \$8,333 annually for three years toward outstanding student loan debt.

### **Future of State Financial Aid Programs**

- 1. What specific policy recommendations do you have for making improvements to the Cal Grant program to more effectively serve California students?**



2. There have been discussions about eliminating the Cal Grant B first-year restriction that awards students only subsistence aid and does not cover student fees until the second year. Do you believe this restriction should be changed? If so, why?
3. How well utilized are the teacher and nursing loan assumption programs, and how effective are they in meeting the state's labor-force shortages?
4. Given the recent state policy discussions about the need to enhance career technical education, what should be done to revise and strengthen the Cal Grant C program?

\* \* \* \* \*

#### **FINANCIAL AID OUTREACH PROGRAMS**

The Student Aid Commission and EdFUND engage in public awareness and outreach activities to assist students and parents with the financial aid process. There are three major outreach efforts:

1. The California Student Opportunity and Access Program was established by the Legislature in 1978, with the goal of improving information about postsecondary education and financial aid among students with low eligibility or low college-participation rates.
2. Public awareness campaigns promoting Cal Grant opportunities include media advertising, outreach to community-based organizations, and direct-mail advertising to students and their parents.
3. The commission's California Cash for College program offers multi-lingual, hands-on assistance with completing the Free Application for Federal Aid and securing grade point verification for potential Cal Grant recipients.

Even with these efforts, there is major concern that the lowest income students and their families need better access for financial aid information.

**Financial Aid Outreach Programs**

1. How does the commission prioritize its outreach activities to reach the lowest income students in the state? How does the commission reach out to non-English speaking communities?
2. What can the commission do to expand how it helps families complete the Free Application for Federal Aid to increase access to financial aid?
3. What is the commission doing to develop outreach programs that increase participation in the Cal Grant community college transfer entitlement program?
4. Given that only one in six eligible Cal Grant applicants receives a competitive award, what does the commission do to follow-up with eligible non-recipients to help them secure other financial aid opportunities?

\* \* \* \* \*

**CONCERNS REGARDING THE RELATIONSHIP BETWEEN THE CALIFORNIA STUDENT AID COMMISSION AND EdFUND**

In 1996 the commission was granted statutory authority to create EdFUND as a nonprofit auxiliary organization to administer the Federal Family Education Loan Program. EdFUND provides federal loan guarantees for California students and out-of-state students who obtain these federal loans.

Serious concerns have been expressed about the organizational relationship between the California Student Aid Commission and EdFUND. In 2006 the Bureau of State Audits issued a report raising questions about the long-term financial stability of the student loan program in California, various EdFUND



business practices, and the lack of clear roles and responsibilities established for both EdFUND and the commission.

The Legislative Analyst's Office also released a report in 2006 identifying numerous problems with the current governance structure of the two organizations. The report provided various options for administering the federal loan program, such as authorizing a single agency to administer both state and federal programs, or restructuring EdFUND as a nonprofit public benefit corporation subject to stronger accountability requirements.

The commission, meanwhile, has retained an outside consultant to recommend new roles and responsibilities for the two organizations, and a final report is expected in time for the commission's April 2007 meeting.

**Concerns Regarding the Relationship Between the California  
Student Aid Commission and EdFUND**

- 1. How do you propose improving the relationship between the Student Aid Commission and EdFUND?**
- 2. What policy changes should be considered in light of the recent Bureau of State Audits and the legislative analyst reports?**
- 3. What is the time frame for adopting new and clear roles and responsibilities for both the commission and EdFUND, as a result of the forthcoming consultant's report?**

\* \* \* \* \*

*Prepared by Marlene Garcia and Lisa Giroux*



CALIFORNIA LEGISLATURE  
CALIFORNIA STATE SENATE  
Senate Rules Committee  
The Honorable Don Perata  
Senate President Pro Tem  
Chairman, Senate Rules Committee

**Senate Rules Committee**

Respectfully Submitted By:

FEB 01 2007

Chad G. Charton  
California Student Aid Commission

**Appointments**

As you are fully aware, the principal mission of the California Student Aid Commission (CSAC) is quite simply to '*make education beyond high school financially accessible to all Californians.*' In my short lived tenure and association with CSAC, I have been privileged to further serve the interests of my fellow students in an effort to preserve the spirit of true access and affordability to a post secondary education. Additionally, I am pleased to report that I have served in the company of Commissioners and CSAC staff alike, who have undoubtedly committed themselves with unwavering leadership, zeal and devotion towards the advancement of our mission.

It is of great importance however, to underscore the climate of CSAC's present circumstances. While tremendous progress and positive momentum continue to persist, the nature of CSAC's present state of affairs is characterized by continuous challenges. These so called 'barriers to success' were highlighted quite candidly in the Bureau of State Audits (BSA) report conducted just a few short months ago in April of last year. The BSA report and its subsequent findings, conclusions and recommendations served to highlight and identify the problematic forces plaguing CSAC and Ed Fund operations. Despite the simple fact that my term of service commenced well beyond the issuance of the BSA audit, I have witnessed and intimately participated in the strategic development of addressing the very issues the BSA audit brought to our attention.

In a letter dated January 5, 2007 and issued on behalf of the Senate Rules Committee, Senator and Chairman Don Perata requested that I prepare this statement in which I am asked to outline my short and long term goals for the Commission. It is essential for me to reiterate however, that my term of service took affect August 18, 2006 and is scheduled to terminate June 1, 2007. Consequently and for the purposes of



completing this written testimony, I believe it is imperative to define the context in which the terms 'short' and 'long term' will be used. I will be using the phrase 'short term' to describe those goals with which I hope to achieve during the remainder of my term and the phrase 'long term' to describe those shared goals in which I hope to influence well beyond the course of my term. I am honored to do so in the following statement.

## **I. SHORT TERM GOALS**

### **Fully Participate and Contribute to each and every Commission Meeting and Sub Committee Teleconference**

Provided that this 'goal' is implied as part of the obligations associated with serving the Commission, I felt it is imperative to reference this duty of office or 'goal' for our purposes relevant to this testimony. Over the course of the last several months, the membership of the Commission is diminishing by the week. Consequently, full participation by all Commissioners is vital if we are to fulfill our charge to the best of our ability. Despite many other commitments, I vowed that I would fully participate and contribute to each and every Commission Meeting and Sub Committee teleconference realizing full, that partaking in such proceedings was fundamental to the successful execution of my role. I am pleased to report here that I have fully attended and participated in each required proceeding while simultaneously exceeding the requirements prescribed by my office.

### **Attend and Actively Participate in Annual Conferences for the California Association of Student Financial Aid Administrators (CASFAA) and the California Community College Student Financial Aid Administrators Association (CCCSFAAA)**

I had the privilege to attend the annual conferences for the California Association of Student Financial Aid Administrators (CASFAA) and the California Community College Student Financial Aid Administrators Association (CCCSFAAA) this past December. The experience enabled me to assume the perspective of a financial aid administrator and to learn of the many concerns and issues that this critical stakeholder segment faces. I committed myself upon assuming office that I would take advantage of



every opportunity to learn and come to terms with the popular sentiment of our many stakeholders. Attending both conferences was an awakening orientation and permitted me to closely interact and converse the many financial aid professionals throughout our State.

### **Actively Participate in a Cash for College Workshop**

Cash for College workshops are intended to assist low income and first generation college students address the many questions and concerns they have related to financial aid in addition to providing professional assistance as they complete the Free Application for Federal Student Aid (FAFSA) and Cal Grant GPA verification form. I believe Cash for College workshops are a noteworthy production of CSAC. They provide a true service equipped with professional expertise that is personally delivered to those who need it most. It is my intent to actively participate in a Cash for College workshop in an effort to not only assist CSAC staff efforts but more importantly, to connect with the constituency we serve. Attending a workshop will enable me to do just that and will also afford me the opportunity to assess and measure the true effectiveness of our workshop program in addition to our outreach efforts. I am currently scheduled to attend a workshop taking place in my own community February 10.

### **Work Closely with the California State Student Association (CSSA)**

As a former student body president and board member to CSSA, I am familiar with the organizations autonomy and have come to acclimate myself with the group's policy agenda related to financial aid for this coming year. I intend and have come to formulate a collaborative working relationship with CSSA as they embark on their advocacy work. In a recently authored resolution, CSSA will be calling on the State Legislature in support of providing funding for tuition and fees during the initial year of award for Cal Grant B recipients. Further, CSSA contends that current Access fee support for Cal Grant B recipients does not address the true need of those who need it and thus, the dollar amount in Access support fees should be increased. Moreover, CSSA will be encouraging the State Legislature to fully award all 22,500 available competitive Cal Grants limited by Statue but to also increase the total numbers of awards to address the

growing disparity of qualified non-recipients. It is my intent to fully support the credible advocacy work of my colleagues, peers and friends.

### **Present a Workshop at the 12<sup>th</sup> Annual California Higher Education Student Summit (CHESS)**

*The California Higher Education Student Summit (CHESS) provides an opportunity for the student leaders of the California State University system to learn more about higher education public policy and to gain the leadership and advocacy skills.* I will be presenting a workshop entitled, College Access through Financial Aid. The workshop will be taking place April 15, 2007.

### **Possible Service on an Additional Sub Committee**

Due to the low membership that currently exists on the Commission, the various Sub Committees are also experiencing low membership as well. As a result, I have agreed to serve on yet another sub committee and have communicated my willingness to our acting Chair.

### **Completion of the Institutional Participation Agreement (IPA)**

The Institutional Participation Agreement as the name suggests, is the contractual agreement between participating institutions and CSAC. The formation of an Institutional Participation Agreement will be completed and likely acted upon by the Commission during our March meeting. The successful completion and execution of the IPA will be critical.

### **Completion of CSAC / Ed Fund Roles and Responsibilities**

The formation of a special Committee occurred in April 26, 2006 whose charge was to review, respond and act upon the findings set forth by the Bureau of State Audits report (BSA). During the Committee's meeting on May 26, 2006 they issued a recommendation that external consultants be hired to develop a series of recommendations on the subject of roles and responsibilities. As it currently stands, the Commission will hear a preliminary report from the external consultants during its

February 2007 meeting and during the Commission's March 2007 meeting we are scheduled to hear a final report. I would venture to argue that the majority of our current issues are attributable to the ambiguity surrounding the autonomy and organizational dynamics amongst each organization (CSAC & Ed Fund). Clearly and arguably, this issue will be by far, the most critical matter the Commission works towards in the coming months. The roles and responsibilities has a profound impact on the continued success of our organizations and the issue must be dealt with in a timely and proficient manner.

### **Completion of CSAC / Ed Fund Operating Agreement**

The completion of the CSAC / Ed Fund Operating Agreement is currently scheduled to be completed and approved in April 2007 however contingent on whether the roles and responsibilities agreement has been reached. The Commission was recently approved for an extension towards to the completion of an Operating Agreement through June 30, 2007 after several extensions had been granted in months past by the Joint Legislative Budget Committee. While as a Commissioner, I am thankful for the patience exhibited by members of the Joint Legislative Committee, I am well aware of their adamant concern that an Operating Agreement be drafted and completed quickly. Our future success and continued progress is clearly dependent on that simple fact. I am confident that Legislative intervention will not be necessary, however, that consequence for failure to yield a completed Operating Agreement is likely. The Commission understands that and as a result, we are doing everything we possibly can to comply with our newly established deadline.

### **Completion of the Final Bureau of State Audits (BSA) Response**

My understanding is that the final response to the Bureau of State Audits (BSA) is due in April 2007. While I believe we have made progress in addressing the findings, conclusions and recommendations we will surely need to demonstrate measurable progress. The Audit itself identifies an assortment of issues of concern and I am confident that measurable, justifiable improvements have been made. I look forward to contributing as we prepare the response in the coming weeks.



## **II. LONG TERM GOALS**

### **Advocacy Support to the California State Student Association (CSSA)**

In my short term goals, I alluded that I intend to develop a collaborative working relationship with CSSA. I also provided insight into their legislative priorities as they continue their year of service. I fully intend to participate in their lobbying efforts as they meet with members of the State Legislature as not only I share their concern but I believe it is important to support their efforts and demonstrate that support by participating in lobby visits. Be aware, we will surely be coming to a Senate office near you! ☺ An important stipulation however, is that I may or may not sympathize with all of their legislative positions.

### **Advocate the Need for an Increase in the number of Competitive Cal Grant Award**

As you know, the number of competitive Cal Grant awards is limited by statute to 22,500 per year. In 2005-2006 the Commission had to deny more than 112,000 qualified applicants for competitive awards (Commission Data). Last year, Assembly member Hector De La Torre sponsored AB 2813 which amongst other things, would have doubled the number of competitive awards. I do believe that this growing disparity should become a legislative priority. A significant observation is that 112,000 qualified non recipients is nearly five times the number of awards actually being awarded. Restrictive budgetary constraints are always present and I do believe that fiscal accountability is absolutely necessary. However, some progress should be made in addressing this escalating disparity as tens of thousands of students go without student aid. Please know that this subject is by far, my top legislative priority above all others.

### **Advocate the Need for an Increase in the Cal Grant B Access Grant**

AB 1315 was introduced by Assembly Member Carol Liu in the 2005-2006 legislative session which sought to increase the amount of the access grant awarded to Cal Grant B recipients. According to the Commission's 2003-2004 Student Expense and



Resources Survey (SEARS) and adjusted for inflation, the access grant should be closer to \$3,600 to date. Unfortunately, we are less than halfway there. Similar to the need to increase the number of Competitive Cal Grant awards, I believe conservative, slow growth increases are feasible over extended periods of time. Please know that I would label this subject as my second legislative priority.

**Explore the Following Pertinent Legislation as it Progresses in the Legislative Process**

**AB 152 (Beall – D)** Would establish the California Prepaid Tuition Program to be administered by the ScholarShare Investment Board. In its current form, it would allow the advanced or prepaid purchase of tuition units at today's cost. The Commission has yet to explore and issue a position on this Bill.

**AB 175 (Price)** Set the maximum Cal Grant B access grant at no less than \$1,551 which is the current amount. The Commission has yet to explore and issue a position on this Bill.

In closing, please know that I truly appreciate the opportunity to address the members of the Senate Rules Committee and I am looking forward to meeting with each of you and addressing any questions or concerns you may have during my confirmation hearing scheduled for February 14, 2006. I would also like to extend my sincerest thanks for your thoughtful consideration.



Alliance for Regional Collaboration  
to Heighten Educational Success  
(ARCHES)  
5171 California Avenue, Suite #150  
Irvine, CA 92697  
January 30, 2007

Ms Nettie Sabelhaus  
Rules Committee Appointments Director  
State Capitol  
Room 420  
Sacramento, Ca. 95814

Dear Ms. Sabelhaus:

Below are my responses to the questions raised in Senator Perata's letter to me of January 5, 2007 regarding my nomination to the California Student Aid Commission.

- 1) *Please provide a brief statement outlining the goals you hope to accomplish while serving on the California Student Aid Commission. Please be specific.*

My overall goal would be to further the mission of the Commission, to help ensure that financial barriers to postsecondary education are eliminated for financially needy students and their families.

More specifically, I would like to help to improve the efficiency and effectiveness of the Commission's efforts. At the organizational level, this would include seeking out and reducing redundancy within the agency and between the agency and the institutions where grant recipients are enrolled; ensuring that the agency is collaborating with appropriate stakeholders to the maximum extent possible; and being as accountable and transparent in its workings as possible. At the student/family level, this would include ensuring clear information about the availability and process for garnering available resources, and streamlining the processes involved to make these financial resources as easy as possible to obtain.

A goal related to the above paragraph would be to have measurable outcomes attached to the various activities of the Commission. In my view these should be based on quantifiable measures (e.g. how many eligible students have applied for and received certain awards) and qualitative information (e.g. were the awards sufficient to allow students to enroll in their institution of choice.) With regard to the latter, metrics should be developed to help determine whether the Cal Grant funding influences student interest in attending college and their choice of institutions, as well as their persistence and graduation rates.

Another goal is to help ensure that the Commission is an aggressive policy advocate for financially-needy students in both the State and Federal arena, to ensure that the mission of the Commission can be achieved.

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Finally, I would like to see a resolution to the difficulties between the work of the Commission and the work of its “subsidiary,” EdFund. The working rules that govern these entities were crafted in a different time under very different circumstances, and a solution to the melding of these different “cultures” needs to be realized to better serve the people of the State.

[With respect to responses to questions #2 through #13, a number of these questions ask about the status of current Commission activities, or the manner in which the Commission currently is addressing certain issues or carrying out its work. Since I was appointed to the Commission in October of 2006 and have attended only the one meeting that has occurred since then – in November 2006 – I am still in the learning process about the Commission’s functioning, and must rely on information provided to me. In the responses below, I will indicate my reliance on other’s reports to me with, “I understand that...” Other questions deal with my views; in those cases I will begin my response with “In my opinion...” I hope that this format will add clarity to the responses I have provided.]

- 2) *Is the Commission developing any policies that address the rising costs of attending colleges in California, especially the growth on non-fee related expenses? What policy changes might CSAC consider in response to this growing need?*

I understand that the Cal Grant programs, in combination with California State University (CSU) and the University of California (UC) return-to-aid strategies, serve to address the impact of public segment fees on financially-needy students since Cal Grants, along with CSU and UC institutional grants as well as California Community College (CCC) Board of Governors grants, increase as UC, CSU, and CCC fees increase. However, currently the Cal Grant programs do not address the impact of non-fee increases on financially-needy students. The increases themselves are not conducive to control by CSAC or the State as they are generally reflective of broader national trends (e.g., rising rents and home mortgage payments, rising costs of most types of credit, rising gas prices, rising health care costs, etc.). Thus, it is incumbent on CSAC to work towards mitigating the impact of the increases on needy students.

The Pell Grant program does help with non-fee costs of financially-needy students. However, the Pell Grant maximum, which now stands at \$4050, has not increased since 2003-2004, after a very modest \$50 increase in 2002-2003. Pell Grant maximums are important to address this issue, and an increase is overdue; the Congress at last is working on a much-needed \$260 annual increase in the maximum Pell Grant.

The Cal Grant B stipend also helps with non-fee costs of low-income financially-needy students. However, the last significant increase to the stipend was in 2000-01 when the award increased by 10% from \$1,410 to \$1,548 and was then adjusted to \$1,551 in 2002-03. CSAC has historically supported legislative efforts to increase the stipend, including AB 1315 carried by Assembly Member Carol Liu in the 2005-06 legislative session. CSAC also has had input on proposals that would tie the Cal Grant B stipend to an index that would reflect non-fee cost increases (e.g., a percent of certain non-fee expenses students report on the Student Expense and Resource Survey that CSAC conducts every



three years). An index has the advantage of obviating the need for separate periodic efforts to increase the stipend.

Because the Cal Grant program is an entitlement for those students moving directly into postsecondary institutions from high school, including those who attend an independent college or university in California, it responds effectively to increases in the number of students who need financial support as a result of cost increases, potentially including non-fee costs increases. However, the Cal Grant program is not sufficiently responsive to the growing number of non-traditional students, for example, those who do not enter postsecondary education shortly after graduating from high school, but who also need financial assistance as a result of cost increases. These students, who by statute are not eligible for entitlement awards, must compete for a fixed number (22,500 per year) of competitive Cal Grant awards. As a result CSAC has had an ever increasing number of qualified Cal Grant applicants whom they cannot serve. In 2005-06, the number of qualified Cal Grant applicants who were denied competitive awards reached 112,000 individuals. CSAC has supported legislation that would increase the number of competitive awards. CSAC also has supported an alternative solution, expanding the scope of the entitlement programs. AB 2813, which was enacted last year, took a step toward increasing access to the Cal Grant Transfer Entitlement award by raising the age limit from age 24 to under age 28.

In my opinion, the efforts described above should continue.

*3. How does the Commission determine the student budget for attending a California college or university? How does this budget keep pace with the growth of college-related expenses such as books and supplies?*

I understand that CSAC annually adopts a recommended student budget as a guideline for schools. The budget includes direct institutional charges (i.e., tuition, fees, on-campus room and board, etc.) as reported to CSAC by each campus along with books/supplies and other living expenses (i.e., off-campus rent and food, transportation, and personal/miscellaneous expenses) based on the average reported expenses of actual students participating in the Student Expense and Resource Survey (SEARS) conducted by CSAC. Campuses report their direct institutional charges annually so that they reflect increases in the actual amounts students are being charged. Increases in what students are spending in the other expense categories, including books and supplies, are captured every three years when a new SEARS is conducted. In the intervening years between surveys, the expenses are updated for inflation using forecasted changes in the California Consumer Price Index.

In my opinion, this method of budget determination, grounded in real information reported by students, should be continued.

*4. When developing the student budget for determining financial aid, does the Commission take into account the different costs of living in various parts of the State?*

I understand that CSAC-recommended student budgets recognize the differences in the direct costs charged by institutions (i.e., differences in tuition, fees, on-campus room and board, etc.). The CSAC budget for the rest of the expense categories is based on a single average for students across the state and does not vary by region. However, the expense budgets that institutions develop and use for federal financial aid programs typically reflect local costs and spending patterns. These institutional expense budgets also are used for determining eligibility for Cal Grants renewals. CSAC has indicated its recognition of the appropriateness of use of the institutional budgets, which are sensitive to local conditions, with respect to costs of attendance beyond the direct institutional costs, to adjust the recommended Cal Grant budget used in determining eligibility for new Cal Grant awards.

In my opinion, this institutionally-influenced, more flexible and sensitive method of budget determination should continue.

*5. What is the Commission doing to influence the development of federal financial aid policies currently under review in Congress that have a direct impact on California students?*

I understand that CSAC has a dual interest in influencing federal financial aid policies. As a state guarantor, CSAC is invested in policies that affect state guarantor operations and revenue potential. Therefore, CSAC would need to advocate for policies that will allow CSAC to maximize its ability to fulfill its guarantee function and its ability to maximize revenue to provide for borrower benefits and state priorities. CSAC and EdFund staff work with national organizations such as the National Council of Higher Education Loan Programs (NCHELP) as well as directly with Congress and the federal Department of Education to pursue actions beneficial to guarantee agencies in general and CSAC/EdFund in particular.

In its statewide financial aid role, CSAC also has an interest in federal policies affecting California students. In establishing advocacy positions, CSAC should consult with the various state stakeholders since policies often do not have the same effect on students in different segments. On issues where there is a state consensus (e.g., increasing the maximum Pell Grant), CSAC staff pursues advocacy efforts by working with national financial aid organizations such as the National Association of State Student Grant and Aid Programs (NASSGAP) and the National Association of Student Financial Aid Administrators (NASFAA) as well as directly with Congress and the federal Department of Education.

In my opinion, there are additional changes to Federal financial aid laws that I believe CSAC should support that are not being debated in the public arena at present. Because the cost of living, particularly of housing, is so high in California and because workers in this state are generally compensated with higher salaries than those in less costly areas of the country, relatively “needy” Californians are generally disadvantaged by the federal need analysis algorithm which recognizes the California incomes but does not recognize



the higher costs borne by most residents of California. A California family earning \$60,000 per year is being treated roughly the same in terms of how much they are expected to pay to send a child to college as an Alabama family earning \$60,000 per year, despite the fact that the cost of living is much lower in Alabama. This inequity in the formula for determining family and student contributions to paying for higher education should be recognized in the federal means test with factors that take into account regional costs as well as regional incomes, "regional cost sensitivity." Students whose families live and work in very high cost areas of the country are not at present getting an equitable share of federal financial aid. This change would be of enormous benefit to many Californians paying for college.

*6. What are the Commission's top priorities in advocating for changes in federal financial aid policy?*

Based on CSAC's mission to "preserve and improve student access to the college or university of their choice through financial aid programs," CSAC support for increases in the buying power of a Federal Pell Grant is assured. In addition, CSAC would be in support of the recent Congressional effort to increase the annual Pell Grant maximum to \$4,310, a \$260 annual increase.

I understand that CSAC's top priority at the federal level is maintaining the viability of its state guarantee agency function. From a state perspective, the revenue stream generated by EdFund activities is an important supplement to state General Fund support of state financial aid programs and their administration. Key to maintaining that revenue stream is the negotiation of a Voluntary Flexible Agreement (VFA), which will improve the short-term financial position of CSAC EdFund as well as position CSAC EdFund for the inevitable longer term transition of state guarantee agencies in the federal loan programs.

In my opinion, the context in which guarantee agencies functions is changing. The federal government created state guarantee agencies in the 1980's to improve student access to federal student loans by promoting local lender participation. In an environment that preceded national banking laws and widespread use of electronic financial transactions, the original Federal Insured Student Loans (FISL) program was unable to provide adequate service to local lenders, who were resistant to making loans. Thus, the federal government needed regional partners to insure loans, which are then re-insured by the federal government, to make the centralized national program succeed. Today, access to student loans is no longer an issue, and the federal government could easily accomplish the loan guarantee function without state guarantee agency intermediaries.

Moreover, the current funding model for guarantee agencies, which relies heavily on compensation for the collection of defaulted loans, creates a perverse incentive. At present, most guarantee agencies can actually improve their revenue stream if the loans they guarantee go into default. Therefore, it appears that in the long term the federal government would shift emphasis away from the guarantee function and its traditional

funding mechanism to a more traditional service provider model under which guarantee agencies, like any other business entity, would compete for contracts to provide specified student loan program services (e.g., default prevention) to the federal government. The experimental efforts in this regard, called Voluntary Flexibly Agreements (VFAs) that govern the mechanism by which the Secretary of Education reimburses about five guarantee agencies (including CSAC/EdFund) for their work, are a first step in that direction. In my view, it is very important for CSAC both to take advantage of current VFA opportunities, to the extent that they are made available by the Department of Education, and to influence their evolution as funding models for the work of guarantee agencies.

7. *How does CSAC measure the effectiveness of its financial aid programs? How do you evaluate this effectiveness?*

I understand that CSAC measures program effectiveness by evaluating the number of applicants served and the characteristics of both recipients and non-recipients. A wealth of basic statistics on trends in applicants and recipients are produced annually. A key metric that is tracked is the number of eligible applicants who do not receive awards. The basic statistics are supplemented by occasional reports from EdFund that focus on program outcomes. For instance, EdFund produced a 2004 report, *Determined to Succeed: Realizing the College Dream in California* that explored the impact of Cal Grants on college persistence.

In my opinion, CSAC could put more effort into evaluating effectiveness relative to the broader goals of the program (e.g., improving the financial accessibility and affordability of college, providing choice among colleges by minimizing cost differentials across segments, improving persistence and graduation, etc.). This requires better articulation of the goals and the development of metrics tied to these goals. For instance, in looking at financial accessibility, CSAC could track the enrollment of financially-needy students in college relative to the California population. In looking at affordability, CSAC could track trends in the net cost of attending college for students and families, trends in debt levels, and trends in the amount students are working. In looking at college choice, CSAC could compare access and affordability measures across segments. CSAC also could articulate the role of Cal Grants, relative to other grant programs, in achieving these broader goals. It appears that Cal Grants are sometimes viewed in isolation without recognizing the interaction between Cal Grant funding and funding from federal and institutional aid programs in achieving these goals.

CSAC also could evaluate the effectiveness of its financial aid programs in terms of the delivery of funding to students. Effectiveness should not only be measured in terms of accountability in ensuring that awards are received by eligible students but also be measured by the burden for students of the Cal Grant delivery process. The Cal Grant process itself should not create additional barrier to the state's access and affordability goals. Effectiveness also should be measured by the efficiency of the process for both CSAC and institutions so that administrative costs can be minimized.



8. *As a CSAC Commissioner, do you have specific policy recommendations for making improvement to the Cal Grant A and B programs to serve California students more effectively?*

My first priority would be to maintain the State's current commitment to student support by expanding the types and variety of financially-needy students eligible for the Cal Grant Entitlement Programs, the value of the awards that students receive, and the number of Cal Grant Competitive awards.

Beyond that, my second priority would be to provide coverage of tuition and fees to Cal Grant B students in all years (i.e. including the first year). Not paying tuition and fees to first-year Cal Grant B students is an anomaly that is inconsistent with the state's special role in equalizing the impact of differential tuition and fee costs across segments, makes the first-year awards for low-income students (Cal Grant B) less beneficial than the first-year awards for middle-income needy students (Cal Grant A), muddies the message to students, and complicates program administration.

For the reasons discussed in my response to question 2, my third priority would be to increase the Cal Grant B stipend.

A fourth priority would be to increase the number of students served by the programs. My preference is to do this by gradually expanding the eligibility criteria of the Cal Grant Entitlement Programs to be more inclusive rather than increasing the number of competitive awards. The long term goal should be to eliminate the need for a competitive grant program by having the entitlement program apply to all needy students. The entitlement program creates a powerful state message to students, which is extremely useful in communication efforts with both students and their families. The competitive program, while currently needed as a safety valve for the students not eligible for entitlement awards, adds complexity to the overall Cal Grant programs as well as being administratively costly to administer.

9. *Given the recent state policy discussions about the need to enhance career technical education, should the Cal Grant C program be strengthened? If so, how?*

I understand that the Commission's Cal Grant C awards assist students pursuing career technical education by helping them pay tuition and training costs. The award includes an amount for books, tools and equipment. Students planning to attend a school other than a California Community College may receive a tuition award. Funding is available for up to two years, depending on the length of the program, provided that the program is at least four months long.

In my opinion, enhancing the accessibility and affordability of career technical education is an important issue and the role of the Cal Grant C program should be addressed vigorously. However, before deciding on the appropriate role for the Cal Grant C

program, I would need more information about the ways students in career technical programs actually finance their education, the special issues they face, and the scope of the problem. The Cal Grant C program is a very small program relative to the numbers of students in career technical education. It may be that expanding the Cal Grant C program, both in terms of numbers of students served and the value of the award, would be the best approach. However, the process for applying for and receiving a Cal Grant C is very labor intensive. Given the time frame of many of these technical and vocational programs, an award program with a simpler structure that could get funds into the hands of students more quickly might be preferable. I also would want to consider other possibilities – perhaps work or internship opportunities connected to the student’s career objective – before deciding on a particular course of action.

*10. What CSAC-sponsored outreach activities do you believe are most effective in advising prospective college students about the Cal Grant and other financial aid that is available to low- and moderate-income students? How do you evaluate the effectiveness of CSAC’s outreach to prospective students?*

I understand that the Commission administers several outreach programs to support the mission of the Cal Grant and financial aid programs. The Commission’s outreach includes: the annual Outreach Campaign, the California Student Opportunity and Access Program (CAL-SOAP), California Cash for College and CSAC training programs. I understand that the Commission’s outreach programs are integrated in that the CAL-SOAP program and the Commission’s Outreach campaign are integral to the success of the California Cash for College program. Along with the high school and community college counselor training programs, each of these programs is designed to work together to change the social climate and to let all aspiring students know that financial need should not be a barrier to attaining their goals of education beyond high school.

I became familiar with the success of a number of regional CAL-SOAP programs during my tenure at the University of California. I am a firm believer in ensuring that the effectiveness of outreach programs is demonstrated in terms of measurable outcomes. Beyond the degree of participation in the various activities (i.e., the number of students served), the impact of the activity on the likelihood of eligible students completing the Cal Grant application process and receiving a Cal Grant should be assessed. These assessments often are challenging because identifying an appropriate control group which did not have access to the activity (e.g., a California Cash for College workgroup) can be difficult. In the case of a statewide public awareness campaign, a pre- and post-assessment of the information conveyed as well as the relationship between having that information and successfully applying for aid is needed.

Because of my interest in this area, I have requested and have been placed on the CSAC Outreach Committee.

*11. What policy changes do you advocate in response to the concerns raised in the Bureau of State Audits and the Legislative Analyst reports in 2006?*



I understand that at its April 2006 meeting, the Commission adopted a plan to respond to the concerns raised in the audit. At the September 2006, the Commission approved a 2006-2007 loan program business plan and a balanced 2006-2007 Student Loan Operating budget. The business plan and budget included strategies for both loan volume and revenue growth not only in 2006-2007 but over the next five years. Further, I understand that the Commission will review EdFund's revenue and expenditure data for 2006-2007 at its February 2007 meeting. In addition, timely and detailed responses to the 18 issues raised by the State Auditor already have been forwarded to the auditor.

Moreover, I understand that the Commission has not taken any action in response to the Legislative Analyst report issued in 2006, but that the Legislative Analyst report echoes some of the same basic governance concerns raised in the State Auditor's report, and goes a step further to recommend that the administration of the state's grant and loan programs should be handled by one non-state entity.

In my opinion, these matters represent a critical set of issues facing the Commission. In light of the importance of these matters, I have agreed to be placed on the Commission's Audit Committee. In my preliminary review, it occurs to me that the State statute described by the auditors may need to be revisited in order to provide any guarantee agency linked to a state grant agency with the requisite flexibility to compete in today's guarantee agency marketplace. While I am not convinced of any particular alternative at this point, I am open to learning about the pros and cons of structural options, since it is unclear to me at this time if the current structure specified in statute for CSAC and EdFund can succeed in the long term.

As discussed in my response to question #6, the landscape for guarantee agencies in general is changing. The federal government seems to be squeezing revenue opportunities for all guarantee agencies with the likelihood that only a handful of agencies will survive. Already, a number of smaller guarantee agencies have failed. Against this backdrop is an oversight role for CSAC that is grounded in an accountability culture appropriate for a state agency but perhaps too restrictive to provide the freedom needed by EdFund to successfully compete in a business environment that includes major national guarantors without strict state oversight.

At the most basic level, there is the question of whether or not it is realistic and appropriate for the State to be relying on EdFund's role as a guarantee agency to generate revenue for State operations and programs. If not, CSAC could divest itself of this function. Assuming the State does want to generate revenue from guarantee agency functions, CSAC should take a serious look at other possible models that are successful in other states.

*12. How do you propose improving the relationship between CSAC and EdFund?*

I understand that the Commission is in the process of developing policies that delineate the roles and responsibilities for CSAC and EdFund with the assistance of two consulting firms, and that the consultants will be providing a preliminary report at the Commission's



February 2007 meeting and a final report to the Commission in March 2007. I also am told that the Commission approved an extension through June 30, 2007 of the current Operating Agreement, but hopes to have a new Operating Agreement approved by the Commission in April 2007, which then will be provided for review and comment to the Department of Finance and the Joint Legislative Budget Committee.

In my opinion, the engagement of the consulting firms will help with the completion of the process of clarifying the roles and responsibilities of CSAC and EdFund under the current statutory authority, and this clarification should, in turn, help with the relationship between the two entities. However, given the long-standing difference in the cultures at the two entities and the resulting difference in how the two entities view the amount and type of oversight that is conducive to improving the performance of EdFund, a clarification of the entities' roles and responsibilities may not be enough. It is likely that a new or modified Operating Agreement model will be needed, which may rely on some changes to State statute. I am not prepared at this time to suggest what model might work best but believe a variety of options should be explored.

In addition, and in the meantime, the Commission should make clear the expectations for CSAC and EdFund and hold the respective Executive Director and President accountable for working together effectively to reach these ends.

*13. What changes, if any, would you make to strengthen the organizational structure of the Commission and EdFund?*

I understand that the Commission expects that the recommendations from the consulting firms will help in finalizing the roles and responsibilities of the Commission and EdFund. I expect that the Commission will adopt the policy regarding CSAC and EdFund roles and responsibilities by March 2007 and will act on other recommendations or ideas as expeditiously as possible thereafter. I am open to looking at alternative models for the operation of these organizations.

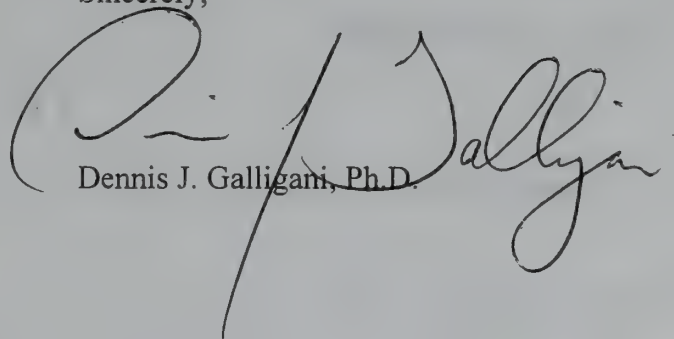
While I do not have specific recommendations about the organizational structure of CSAC and EdFund at this point, in general I would like to ensure that there is no duplication of function. Having staff in one entity "redo" work already completed by the other entity is wasteful of administrative resources.

Perhaps most importantly, in addition to determining what needs to be done to ensure compliance with the state law, the Commissioners will need to step back and ensure that, in the midst of all this organizational debate, the interests of financially-needy students are served, whether they are grant recipients or student loan borrowers, or, as is common, both.

If you have any questions about the responses that I have provided above, please feel free to contact me for further clarification. I can be reached via e-mail at [galligani@arches-cal.org](mailto:galligani@arches-cal.org); or at (949) 824-4496.

I look forward to the confirmation hearing on February 14, 2007.

Sincerely,

A handwritten signature in cursive script, appearing to read "D. J. Galligani". The signature is written in dark ink and is positioned above the printed name.

Dennis J. Galligani, Ph.D.





Cary Allan Nosler  
Responses

Senator Don Perata  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, Ca 95814-4900

**Senate Rules Committee**

JAN 18 2007

January 12, 2007

**Appointments**

Senator Perata,

Please forgive my delay in sending you the California Acupuncture Board Confirmation items as requested. There was a communication problem that resulted from my changing residences whereas the material was sent to my previous address. I apologize for any inconvenience it may have caused the Senate Rules Committee.

Goals:

1. What are your goals and objectives as a member of the Acupuncture Board? What do you hope to accomplish during your tenure?

The California Board of Acupuncture and the acupuncturists it licenses are an important component in providing legitimate health care options for Californians. I believe in quality options and I want to participate in the process of ensuring that the highest standards are adhered to so as to protect the consumer of services like acupuncture

2. What are the highest priorities of the board? How will they be accomplished?

Without a doubt the number one objective of the board should be to ensure consumer safety and confidence. Maintaining high educational standards, requiring relevant CEU courses and hours, and vigorous enforcement of statutes and regulations, are major responsibilities of the California Acupuncture Board.

Public Access to Government:

3. How does the board communicate with acupuncturists and consumers regarding issues affecting the practice of acupuncture? What resources does the board provide to non-English speakers?

Consumers and acupuncturists alike are provided valuable information via the CAB website. It is very thorough and provides avenues when additional information is needed. My observations for the short time I have been on the board have shown me that the CAB office under the direction of Executive Officer, Janelle Wedge, does a very good job of communication with the licensed acupuncturists. As for non-English speakers the board

has provided testing in several languages and the board and CAB office makes a very concerted effort to facilitate the needs of non-English or limited English speakers.

#### Continuing Education:

4. How can the board ensure that continuing education is sufficient to bridge the gap between licensees with fewer hours of training than those with more hours?

Obviously the requirements that existed when the student was enrolled in an approved acupuncture school must be honored but the board can help to bridge that gap by our attention to the CEU requirements.. The number of CEU hours has been raised and we can also make sure that the courses offered are mindful of improving the skills of already licensed acupuncturists.

5. Does the board provide information to consumers about acupuncturists training and Credentials?

I went to the CAB website and found information about training and credentials. There was also a relevant Q and A section for consumers that I thought was very useful.

6. How is the board addressing the uncertainty among practitioners as to what courses Count towards clinical and non-clinical continuing education hours?

That was the subject of much discussion at our last board meeting and it was decided to make it part of the upcoming strategic planning meeting. Since the CEU requirement has been increased that is an issue that needs to be thoroughly evaluated

7. In its 2004 Sunset Review Report filed with the Legislature's Joint Committee on Boards Commissions and Consumer Protection, the board outlined actions taken to improve the auditing and accountability of its continuing education program. How does the board keep track of required continuing education hours for acupuncturists? Is there anything further the board is considering to improve continuing education programs?

As I understand the process when a licensed acupuncturist seeks to renew his/her license then they must show that they have completed the approved CEU hours. The CAB administrative office keeps records and the licensee is also required to keep records for several years and have evidence of their completion. As noted earlier the CEU requirement has been increased and the general issue is slated to be part of the strategic planning meeting where the very important issue of relevancy and improvement of the CEU requirements will be thoroughly examined.

#### Oversight Issues:

8. Is the board planning any actions concerning herb products? If so, please describe them.

I am honestly not aware of any discussions we have had at board meetings concerning herb products other than issues relating to integrating herbal education with training in acupuncture. But I can tell you as a board member, I do have an active interest in issues relating to herbal products. Having dealt with issues of consumer education I plan to introduce discussions that relate to issues concerning herbs and supplements. Providing information about the sources of the herbs and perhaps investigating whether packaged herbal products meet the upcoming GMP (Good Manufacturing Practices) would be relevant issues for the board to discuss.

9. Another section of the above-mentioned report raised public safety concerns about disease protection. In response the board banned the use of reusable needles and now requires sterile, single use disposable needles. How does the board ensure that practitioners are in compliance?

Information about the policies relating to public safety and disease protection are on the CAB website and if someone does observe a violation on the part of an acupuncturist then they can report it to the CAB. As a board we must also stress the ethical responsibility of an acupuncturist to their patients. Perhaps that is also a area that needs to be covered with CEU requirements.

10. What is your view of the adequacy of the board's enforcement effort. Do you feel the board has sufficient resources for inspection and enforcement?

Inasmuch as my time on the board has been very short I can say that what I have observed and the actions I have been called upon to review have left me with a favorable view of the board's enforcement efforts. In conversations with the CAB Executive Officer, Janelle Wedge, it is apparent that the lack of investigative authority, in the absence of a complaint, does limit the board's enforcement potential. How that can be reconciled with existing resources to improve inspection and enforcement is something I think the board should address.





February 7, 2007

TO: Senate Rules Committee  
FROM: Cleotha Adams

My short term goal for the authority is to learn as much as I can as fast I can about current issues before the authority. Several very important issues are being addressed by the authority that will have a positive affect on the California community for many years to come. When making decisions that will affect many in the future I want to know that we made the best decision possible.

My long term goal for the authority would be the physical observation of programs within the CDCR. The best way to know if a program is working is to look at the operation in action. Talking to employees that are responsible for actually administering the program is the best way to measure success.

**Senate Committee**

FEB 07 2007

**Appointments**





JAN 23 2007

**Statement by Eric K. Kawamura  
To the Senate Rules Committee  
Regarding Confirmation as a Member of the Board of Directors of  
The California Housing Partnership Corporation**

Appointments

Eric Kawamura  
Goals

Mr. Chairman and Honorable Members of the Senate Rules Committee:

I am writing in response to your request for a brief written statement outlining my short and long-term goals as a member of the Board of Directors of the California Housing Partnership Corporation (the "Corporation"). These goals are intended to further the Corporation's mission to create, acquire and preserve housing affordable to lower income households, while providing leadership on housing preservation policy and funding.

In the short term, my goals include helping guide the Corporation to use its reputation and expertise as a national leader in financing and preserving affordable housing to advocate for enhancing federal support for programs such as the Low Income Housing Tax Credit, which are the foundation of so many of the successful private-public partnerships that have created successful examples of privately owned affordable housing here in California.

In addition, I want to support the Corporation in developing innovative new financing solutions that use scarce public dollars to leverage private resources and expertise. I am also hopeful that I can use my own knowledge and skills as an attorney in the banking field to help strengthen the Corporation's internal operations and financial position so that it can continue to offer the array of services and technical assistance that are so important to the efficient use of the state's scarce housing resources.

In the long term, my goals include helping the Corporation play a leadership role in identifying a permanent new source of revenue that can be used by the state to obviate the need of perennially returning to the Legislature and the voters to ask for approval of additional affordable housing bonds. Another long term goal is to help the Corporation develop its Preservation Clearinghouse into a well-recognized resource where public agencies as well as owners and developers of affordable rental housing can come for expert advice and information that enables them to do their jobs more efficiently.

In conclusion, if confirmed by the Senate Rules Committee, I will continue to use my skills and experience to help the Corporation further its mission of creating and preserving affordable housing for lower income Californians.

Thank you for this opportunity to provide you with this information.

Eric K. Kawamura







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SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 21, 2007  
1:36 P.M.





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16 WEDNESDAY, FEBRUARY 21, 2007

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24 Reported by:

25  
26 Evelyn J. Mizak  
27 Shorthand Reporter  
28



APPEARANCES

MEMBERS PRESENT

SENATOR DON PERATA, Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

MEMBER ABSENT

SENATOR ROY ASHBURN, Vice Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

XOCHITL ARELLANO, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

RUBEN D. GRIJALVA, Director  
Forestry and Fire Protection

PAUL MASON  
Sierra Club

BRIAN WHITE  
California Forestry Association

BOB RAYMER, Technical Director  
California Building Industry Association  
American Institute of Architects  
California Building Officials

WENDY S. STILL, Associate Director  
Female Institutions  
Department of Corrections and Rehabilitation





1 DAVID WARREN  
2 Taxpayers for Improving Public Safety

3 MARY M. WIBERG, Executive Director  
4 California Commission on the Status of Women

5 BARBARA OWEN, Professor  
6 Criminology  
7 California State University, Fresno

8 DALE RICHTER  
9 Family Council

10 RICHARD TATUM, State President  
11 California Correctional Supervisors Organization

12 TEENA FARMON, Retired Warden  
13 CCWF

14 JIM LINDBURG  
15 Friends Committee on Legislation

16 SISTER SUZANNE JABRO  
17 Women and Criminal Justice

18 KATHLEEN JONES, President  
19 CCPOA at CIW

20 JAMES W. SWEENEY, Legislative Advocate  
21 California State NAACP  
22 State Council of Mentally Ill Offenders

23 CHRISTOPHER GEIGER  
24 Center for Criminality, Addiction, Research, Training and  
25 Application  
26 University of California, San Diego

27 VANESSA HUANG  
28 Justice Now

NATALIE J. DARVES, Legal Advocate  
Justice Now



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	MITCHELL	





--ooOoo--

CHAIRMAN PERATA: Governor's appointees, Ruben, there you are. I thought you missed.

How are you?

CHIEF GRIJALVA: Good. How are you?

CHAIRMAN PERATA: Well, thank you.

We did this. Didn't we just do this?

CHIEF GRIJALVA: For State Fire Marshal, not the Director of CDF. About a year-and-a-half ago, actually.

CHAIRMAN PERATA: It's indelibly in my mind.

[Laughter.]

CHIEF GRIJALVA: We talked about hostage negotiations at that time.

CHAIRMAN PERATA: So, you just want to say "Ibid", and then we can just go.

Why don't you go ahead and present.

CHIEF GRIJALVA: Thank you.

I'm grateful for the opportunity to be here before the Senate Rules Committee for my second confirmation hearing, having served as California State Fire Marshal for the past two-and-a-half years. It's truly an honor for me to have the Governor's confidence in me to serve in his administration in this additional position.

I'm also grateful for my staff, and friends, and many stakeholders who have supported me in the two-and-a-half years as State Fire Marshal and who are supporting me today.

In particular, I'm also very grateful to my

1 family, and I'd like to introduce my wife of 32 years, Judy  
2 Grijalva --

3 CHAIRMAN PERATA: Welcome.

4 CHIEF GRIJALVA: -- supporting me up here in  
5 Sacramento for the past two-and-a-half years. Probably the most  
6 difficult part of job that I've had has been being away from  
7 family, as you all obviously know.

8 This is a key position that provides public  
9 safety to Californians throughout the state, and is responsible  
10 for protection of life, property, and the environment.

11 I'm proud to lead the men and women of this  
12 department. In the past year, I've had the great fortune to be  
13 able to observe the dedication and the courage of the employees  
14 of the Department of Forestry and Fire Protection, now CAL  
15 FIRE. I've seen first-hand as I went to many fires throughout  
16 the state -- this was a particularly long fire season for us --  
17 and first-hand I saw hundreds of our employees putting their  
18 lives on the line for people who they don't even know. And I've  
19 seen them save entire communities as well as prevent billions of  
20 dollars of property loss throughout the state, as well as  
21 protect California's natural resources.

22 During my first 100 days as Director, I had the  
23 opportunity to visit 21 -- 18 of the 21 units in CAL FIRE and  
24 meet with many of the employees and the staff throughout the  
25 state. My purpose of those meetings was to identify what issues  
26 needed to be addressed in the upcoming year, and to identify  
27 those things that were short term, medium range, and long term.

28 I was very impressed with the quality of the

1 employees that we have in this department.

2 I learned very quickly that 2006 would be year of  
3 transition for us. There were many significant issues that  
4 we're facing, including large budget deficits. We face an issue  
5 of inverted salary and salary compaction for employees. We had  
6 some local government issues, as there were concerns in  
7 Riverside County about the possibility of moving Hemet Ryan Air  
8 Attack Base. There were concerns expressed by local government  
9 regarding the rising cost of fire protection. There were issues  
10 regarding our aging in infrastructure and our aging fire  
11 equipment.

12 There was -- a key part of what I did in this  
13 year was the replacement of key leadership positions. I  
14 replaced 11 of 21 CDF Unit Chiefs, as well as two Assistant  
15 Region Chiefs, a Deputy Director of Fire Protection, a Chief  
16 Deputy Director, and an Assistant State Fire Marshal. So, this  
17 was a key year for us in turning over the top level leadership  
18 within the organization.

19 Of those problems now, through working together  
20 with the staff, we put together a two-year work plan to address  
21 all the issues that each major program in CDF is facing, and  
22 began working on resolution to many of those issues.

23 And of the issues that I've mentioned, there are  
24 solutions either well under way or have been completed on  
25 addressing each of those issues.

26 There are still many challenges up ahead, and if  
27 confirmed, I look forward with optimism to working with the  
28 Legislature, with the administration, and with the many

1 stakeholders to find solutions to the issues that we face.

2 With that, I'm open to any questions.

3 CHAIRMAN PERATA: Thank you.

4 Do we call you Director or Chief?

5 CHIEF GRIJALVA: Chief.

6 CHAIRMAN PERATA: CAL FIRE, is this a branding  
7 move? I noticed "Forestry" was removed from the title.

8 CHIEF GRIJALVA: Actually, we have not changed  
9 the name of the organization. We are still the California  
10 Department of Forestry and Fire Protection.

11 CHAIRMAN PERATA: Is this for tee-shirt purposes?

12 [Laughter.]

13 CHIEF GRIJALVA: It is a branding issue actually.  
14 The breadth of what the department does has changed over the  
15 past 100 years.

16 As you know, the Legislature passed a bill  
17 unanimously through the Assembly and the Senate, and the  
18 Governor signed the bill, allowing the Director to use the name  
19 CAL FIRE where appropriate, to help people understand what we  
20 really do.

21 People look at the Department of Forestry and  
22 Fire Protection largely as a forestry or wildland fire fighting  
23 organization. Yet today, we are the county fire department, the  
24 contracted county fire department in 38 counties.

25 We serve all kinds of missions. We get  
26 mission-tasked by the Office of Emergency Services to respond on  
27 floods, on earthquakes, on landslides. We do much more than  
28 wildland fire fighting, although we are the best wildland fire



1 fighting organization in the world.

2 CHAIRMAN PERATA: I knew that.

3 [Laughter.]

4 CHAIRMAN PERATA: So, where appropriate, we're  
5 going to be calling it CAL FIRE.

6 I can't believe I voted for that.

7 CHIEF GRIJALVA: You did, or you were absent that  
8 day.

9 CHAIRMAN PERATA: That's right, or mindless like  
10 most days.

11 One of the concerns that I think all of us have  
12 is that -- and this would appear to be maybe entering a new high  
13 fire season, given the rainfall -- there is, I think, about a  
14 half-a-billion-dollar deficiency rolls through because the fire  
15 service is so used.

16 What are you doing on the prevention side that  
17 might minimize some of these fires? I know deep forest fires  
18 are one thing, but a lot of these urban hills fires, like they  
19 had in Oakland, Oakland did a lot of -- afterwards, after the  
20 fact -- did a lot of work on prevention. But for the grace of  
21 God we haven't had another conflagration like that. So, what's  
22 going on with the department?

23 CHIEF GRIJALVA: My background actually is  
24 largely prevention, having been the State Fire Marshal for the  
25 past two-and-a-half years. I worked for 33 years in local  
26 government, including five years as a fire marshal in local  
27 government level. And so, a large emphasis of where I believe  
28 our efforts need to go is in the prevention side. Every time we

1 have a fire, we have failed with prevention.

2 So, for example, as a result of the Blue Ribbon  
3 Commission, we have developed new regulations for how homes  
4 built in the Wildland Urban Interface will be constructed.  
5 Beginning in January of 2008, homes built in the Wildland Urban  
6 Interface will have to be of ignition-resistant materials:  
7 their exterior siding; their walls; their windows; their eaves;  
8 their vents; their decks; their fences. Those kinds of  
9 materials will be manufactured and made differently.

10 And the reason it goes into effect in 2008, even  
11 though we've been working on it for three years is, we worked  
12 with the various stakeholders who are affected by those kinds of  
13 decisions. And when we went to the Building Standards  
14 Commission, we were 100 percent with consensus; there was no  
15 opposition. And we allowed people time to make the transition  
16 over to the new standards.

17 In addition to that, as you know, the Board of  
18 Forestry has adopted its new regulations regarding 100-foot  
19 defensible space. That is a key part, combined with the new  
20 construction standard, that will help prevent the spread of  
21 large fires into conflagrations. And that part is retroactive,  
22 so existing; whereas, the new construction standards only apply  
23 to new buildings. The defensible space applies to existing  
24 facilities.

25 So, the key for us is to work with local  
26 government, federal government, and ourselves to get out and to  
27 not only educate, but to actually enforce implementation of the  
28 100-foot defensible space.

1 CHAIRMAN PERATA: How's the enforcement? It  
2 would seem to me that we're really good at passing laws, but we  
3 get a little cheap when it comes down to the budget.

4 So, how are you on the enforcement side of what  
5 you just described?

6 CHIEF GRIJALVA: Well, we've made some progress.  
7 We're not where I would like us to be.

8 Part of the problem I think right now is, the  
9 emphasis has been on using people that are assigned for  
10 emergency response to do that work. So therefore, the hours  
11 available to conduct that kind of inspection is at the whim of  
12 whether or not we're having a huge fire season, or whether we  
13 have large turnover and need to spend time training new  
14 employees to be prepared for the fire season.

15 So, we're in the process of doing a  
16 reorganization within the organization to move prevention and  
17 enforcement over into the State Fire Marshal's portion of our  
18 organization, and to put more emphasis in dedicated employees  
19 whose full-time job is to do prevention. So, that's one of the  
20 areas that we're working in.

21 But again, part of it is working with our local  
22 government partners, and educating them, and getting them  
23 involved, and ensuring that -- a lot of the land that we're  
24 talking about is under local government jurisdiction. So, it's  
25 important that they help with that problem.

26 CHAIRMAN PERATA: Do you have agreements that  
27 stipulate they will do such and such?

28 CHIEF GRIJALVA: What we do with our contract

1 county agencies -- in fact, some of them are actually doing a  
2 better job than us, because they do have more staffing, and they  
3 are out there being more aggressive. Including, if somebody  
4 hasn't complied with defensible space, they go out and ensure  
5 compliance and even add it to their tax rolls if they do the  
6 work for them.

7 We have not done that at the state level, even  
8 though we have the authority to do so. For whatever reason,  
9 we've chosen not to do that at this point. So, that's one of  
10 the things we're also examining, whether or not we should be  
11 more aggressive in enforcement.

12 CHAIRMAN PERATA: Do you have that authority?

13 CHIEF GRIJALVA: I do.

14 CHAIRMAN PERATA: I'd really encourage you to  
15 start thinking about using it.

16 CHIEF GRIJALVA: We've been having that  
17 discussion at the staff level. Obviously, when you -- when you  
18 make a change like that, and go from an education, helpful,  
19 prevention, inspection mode to an enforcement mode, there is  
20 going to be --

21 CHAIRMAN PERATA: That's why I want you to do it.

22 [Laughter.]

23 CHAIRMAN PERATA: I live in the area that was  
24 just north of the Oakland Hills Fire. We have now gone into an  
25 assessment district.

26 I think everybody understood on the face of it  
27 that it was something that needed to be done. But we opted in  
28 by a vote.



1                   If you need some help, I'm an expert now, so call  
2 me.

3                   [Laughter.]

4                   CHAIRMAN PERATA: On the forest side, I don't  
5 know if you have anything other than moral persuasion or  
6 political leadership by virtue of your position for this, but  
7 Coho salmon.

8                   Now, we had a phalanx of Forestry Board members  
9 here last year. What we were trying to discuss with them was  
10 getting off the dime and doing something about that. It hasn't  
11 happened.

12                   I hear from the industry side, the worst thing  
13 for them is not having a clear policy of do and don't.

14                   So, I would just like you to think this, that  
15 maybe you can in your newly found, soon-to-be confirmed  
16 position, you might bring the sides together, and can't we see  
17 if we can all get along. You know, one of those type of things.

18                   I think what it needs right now is just catalytic  
19 leadership. And, you know, you ain't no shrinking violet. So,  
20 I would like to encourage you to look at that.

21                   CHIEF GRIJALVA: I definitely will. In fact, you  
22 know, I have been working with the timber industry and the  
23 environmentalists on a number of issues, including Jackson  
24 Demonstration State Forest.

25                   Secretary Chrisman has been working real directly  
26 on the 2112 regulations. We've assigned a Chief Deputy in CDF  
27 and a Chief Deputy in Fish and Game to work on those  
28 regulations.

1                   They've taken regulations to the Board of  
2     Forestry. The Board has asked us to come back with  
3     alternatives.

4                   CHAIRMAN PERATA: Yes, I know. That's kind of  
5     what I was getting at.

6                   CHIEF GRIJALVA: I understand.

7                   We -- CDF has been involved in working with Fish  
8     and Game on this for about a year now. I know it's been going  
9     on longer than that, but our involvement in trying to bring the  
10    Fish and Game requirements and Timber Harvest Plan requirements  
11    together is, we've been working on for about a year.

12                  And it is a difficult issue. And there are  
13    stakeholders with the varying views. And I agree that it does  
14    require not only leadership.

15                  It requires -- I think the issue from my  
16    perspective so far is one of trust. You can have all the  
17    leadership you want, but if people don't trust you, and people  
18    on both sides don't trust you, then it's hard to get anywhere.

19                  So, one of the things that I have been doing in  
20    the last year is reaching out to the various stakeholders,  
21    meeting with environmental groups as well as the timber  
22    industry, and trying to improve communications between our  
23    department and them, and to build trust. And trust is something  
24    that happens one step at the time. I mean, we have to have some  
25    successes. And as we have successes, then the trust is built,  
26    and we can move on to the more difficult issues. And that's  
27    what I've been trying to do.

28                  CHAIRMAN PERATA: I wish you well.

1 Any other questions?

2 SENATOR DUTTON: Just a couple of minor  
3 questions.

4 Helicopter Replacement Study, could you share  
5 with us the status on that?

6 CHIEF GRIJALVA: Well, we have completed the  
7 Study for the Replacement of Helicopters. As you know, we are  
8 currently using -- we have 11 helicopters in the department.  
9 They're from federal excess equipment. And while we do have --

10 CHAIRMAN PERATA: That must be a real confidence  
11 builder.

12 [Laughter.]

13 CHIEF GRIJALVA: Well, the reality is, we have a  
14 first-class maintenance program, and we invest a lot of money in  
15 the maintenance of those helicopters. And so, we also spend a  
16 lot of time in ensuring that, you know, parts are even upgraded.

17 But there's a limited amount of times that you  
18 can do that. These have been rebuilt, you know, year after year  
19 for many years. And so, we recognize the need to move out of  
20 the federal excess program into purchasing helicopters that are  
21 more modern and can meet an all-risk mission.

22 So, we have completed the study. We have  
23 developed a BCP and have submitted it to the administration. At  
24 this point, Finance is holding that BCP to see where we are this  
25 year with the terms of money available. If there is one-time  
26 money available to move forward with the BCP, then we'll move  
27 forward with it.

28 We have about four to five years to actually make

1 the transition, but it takes time to not only get the funding,  
2 but to write the specifications, to go out to bid, to build the  
3 helicopters.

4 One of the things that we're doing is, since  
5 there's only 11 of them in the state, and it's a statewide  
6 mission, we're looking at helicopters that can move around the  
7 state more quickly, for example. Our current helicopters fly at  
8 about 110 knots. We're looking at a specification so that the  
9 new helicopter would be able to fly at 170 knots, so we can move  
10 it around the state more quickly, to have bigger payloads, to be  
11 able to conduct rescues with hoists, to have a broader mission  
12 than just wildland fire fighting.

13 And so, that BCP is done, and we're proceeding  
14 through the administration and, hopefully, to the Legislature in  
15 near future.

16 SENATOR DUTTON: Thank you.

17 By the way, what's the average age of the  
18 helicopter that's currently in service, off the top of your  
19 head?

20 CHIEF GRIJALVA: You know, I don't actually know.  
21 They're from the Vietnam War era.

22 SENATOR DUTTON: About 1960 vintage?

23 CHIEF GRIJALVA: Yes.

24 SENATOR DUTTON: My other question has to do with  
25 the status of the bark beetle infestation. Obviously, it was  
26 big down in my area, but also I understand has potential risk up  
27 in the Tahoe Forest and the Sierra Nevadas.

28 Would you please give us a briefing on, or a



1 little bit of insight as to what's going on with that, the  
2 current status?

3 CHIEF GRIJALVA: Well, our department has played  
4 a leadership role in forest health, fuel reduction, and  
5 community safety in the San Bernardino, Riverside, and San Diego  
6 Counties, where the bark beetle infestation has occurred.

7 As you know, the bark beetle infestation came  
8 about by years of drought, as well as overstocked stands of  
9 conifers that were allowed for that infestation to spread.  
10 There had been no maintenance of those forest areas in the south  
11 since the 1970s.

12 So, we did partner, though, with the federal  
13 government, and we received funding, and have been working with  
14 federal agencies as well as local government, and have put  
15 together a task force to work on the problem.

16 It's not an issue of money at this time. We are  
17 funded to work on the program.

18 So far, the number of trees that we have removed  
19 exceeds a half a million. But as you saw like during the  
20 Sawtooth Fire, some of those areas with dead and dying trees  
21 were at risk. And if a fire moves -- a fast-moving wildland  
22 fire -- moves into those dead and dying trees, it will  
23 accelerate the rate at which the fire moves and create a bigger  
24 program for us from a wildland fire fighting standpoint.

25 We have also removed about 450 miles of dead and  
26 dying trees along roadways to create some buffer from the  
27 roadways there. We have currently spent about 25 percent of the  
28 available funding that we have. The federal government has

1 spent about 60 percent of their funding that they have  
2 available.

3 Originally, there was \$56.5 million to expend.  
4 We have about \$10 million remaining in our department, and the  
5 federal government has quite a bit left in theirs as well.

6 So, it's a matter of doing some studies, making  
7 sure the progress is on target, and then making sure that the  
8 existing emergency conditions remain in place, because there  
9 have been -- a Declaration of Emergency allows us to do certain  
10 things and move more quickly than without it.

11 So, those are -- the progress that we've made so  
12 far.

13 SENATOR DUTTON: Is there anything that you can  
14 foresee at this time that you may be asking us to help with to  
15 further enable you to do the job?

16 CHIEF GRIJALVA: Not at this point.

17 SENATOR DUTTON: With regards to the forest  
18 management and bark beetle situations.

19 CHIEF GRIJALVA: Really not at this point. I  
20 mean, the only concern for us is to make sure that the  
21 Declaration of Emergency that local government has declared and  
22 the state has allowed stays in place.

23 SENATOR DUTTON: Thank you.

24 SENATOR PADILLA: The issue that comes to mind  
25 for most public safety agencies these days, including fire, and  
26 that's the constant challenge of recruitment and retention.

27 How are we doing, number one?

28 And two, I also understand that aside from folks

1 who do the job on the line, on the management side going forward  
2 in a few years, you may have issues due to retirements, that  
3 sort of thing. Can you bring us up to speed?

4 CHIEF GRIJALVA: Yes. Recruitment and retention  
5 is a problem pretty much for every fire department throughout  
6 the state and throughout the country.

7 As you know, Baby Boomers are starting to retire.  
8 With a retirement system that is a Public Safety Retirement of 3  
9 percent at 50, fire fighters are able to retire at a younger  
10 age.

11 Last year, because we had the salary inversion,  
12 that meaning that our supervisors and managers were paid less  
13 than our rank and file members, we had people unwilling to  
14 promote into those leadership positions.

15 We worked with the union and with the Legislature  
16 and the administration, and we brought forward a solution to  
17 that inversion problem. Now, the solution that we brought  
18 forward was a giant step forward, but still will take a couple  
19 of years to fully address the problem.

20 We have, though, seen some success in people  
21 promoting to the position of Assistant Chief, or reinstating to  
22 the position of Assistant Chief, which is the key leadership  
23 position in our organization. So, we've some progress there.

24 The proof will come within two years. If we see  
25 that Battalion Chiefs are not willing to promote to the position  
26 of Assistant Chief, then the fix did not work. We won't know  
27 that for a couple of years at this point.

28 In terms of recruitment, we do hire quite a few

1 seasonal fire fighter employees. In this last year, with the  
2 rollover, the two-year agreement CDF fire fighters, we changed  
3 the number of hours that Fire Fighter Ones worked from 96 hours  
4 to 72 hours. While they didn't get an increase in salary, the  
5 net effect of that was an increase in compensation and made them  
6 more competitive with local government.

7 Without that, we often saw our seasonal  
8 employees, who we brought back and trained year after year,  
9 being hired away by local government. That still may continue  
10 to some degree.

11 But one of the key things that we need to look at  
12 at this point is finding a way of possibly keeping our seasonal  
13 employees year around, because we keep them for nine months, and  
14 we pay them for nine months, and then we lay them off and pay  
15 them unemployment for three months. And then when we bring them  
16 back, and we have to retrain them. So, there's a high cost of  
17 retraining as well.

18 So, one of the things that we are evaluating  
19 right now is the possibility of deep classing our Fire Fighter  
20 One position, or creating a more stable position that might help  
21 us retain employees and keep our talent in California rather  
22 than losing it.

23 SENATOR PADILLA: Do you need the Legislature's  
24 help with that?

25 CHIEF GRIJALVA: We might. We may need to come  
26 back for that in the future, yes. We will work closely with the  
27 administration and the union before we come to the Legislature  
28 in the budget process. It probably will require some kind of



1 BCP or change.

2 SENATOR PADILLA: An issue that was touched upon  
3 earlier, the dual responsibilities of the agency. You have the  
4 fire protection side, and you have the resource management side.

5 The number of personnel positions responsible for  
6 what aside, the balance of the budget for the two  
7 responsibilities aside, as a first-year Member and being briefed  
8 on a whole lot of issues, I understand there's been  
9 conversations about possibly splitting the resource management  
10 out of your responsibility.

11 Would you what care to comment on that?

12 CHIEF GRIJALVA: First of all, there's -- there's  
13 three major missions in our department. And that is, fire  
14 protection, resource management, and the Office of the State  
15 Fire Marshal. That was also consolidated into the organization  
16 a little over ten years ago.

17 I do not at this time support the splitting of  
18 those three missions. I think that they -- the integration of  
19 those parts of our organization has made tremendous steps  
20 forward in this last year. Having come from being the State  
21 Fire Marshal to the Director, you know, I had an opportunity  
22 here to make an integration that hadn't occurred in ten years.

23 So, we are also -- I also believe that the  
24 resource management side of the organization is vital to our  
25 fire mission. We utilize those resources. We use a total force  
26 approach to fighting major wildland fires, and so resource  
27 management employees who are trained in Incident Command System  
28 function in some role, in some capacity, in major events, as do

1 office and clerical support staff. So, we use the -- you know,  
2 we put the whole department's resources at use when we have  
3 these major incidents.

4 And so, in addition to that, the role that  
5 resource management plays in vegetation management, in  
6 identifying and dealing with dead and dying trees, and other  
7 issues like that, shows that the integration of fire protection,  
8 fire prevention, and fire and life safety are -- it's an  
9 appropriate place right now within this organization.

10 SENATOR PADILLA: Thank you. That's a good  
11 explanation.

12 The last area I wanted to ask a question in is  
13 the Headwaters Forest. With Pacific Lumber's bankruptcy filing,  
14 are any of the protections that were negotiated in that purchase  
15 compromised or in jeopardy?

16 CHIEF GRIJALVA: Well, it's probably early to  
17 answer that question.

18 What I will say is that our department legal  
19 staff is working with other state agencies' legal staff and the  
20 Attorney General's Office to ensure that all the provisions of  
21 the Headwaters Agreement are maintained.

22 To this point, there has been an order that has  
23 come from the bankruptcy court that requires them to comply with  
24 all the regulations.

25 In addition, there is an HCP in place, and there  
26 are covenants in place on the land itself that protect the  
27 agreement. But we are, you know, dedicating full-time staff to  
28 ensuring that all the protections are in place.

1                   Secretary Chrisman sent a letter to the Chair,  
2                   and I support that letter entirely and all the provisions. And  
3                   we will make sure that we are intricately involved in that  
4                   decision.

5                   We're also in the process of trying to move the  
6                   venue from Texas to California so that we can make sure that we  
7                   have a closer role.

8                   SENATOR PADILLA: Thank you.

9                   CHAIRMAN PERATA: You mentioned about the beetle  
10                  bug, or whatever that was, the exotic bug down there, Inland  
11                  Empire.

12                 SENATOR DUTTON: It's up north, too.

13                 CHAIRMAN PERATA: You brought it up here.

14                                 [Laughter.]

15                 CHAIRMAN PERATA: Sudden Oak, what's the status  
16                  of the spread of that?

17                 CHIEF GRIJALVA: Sudden Oak Death is more wide  
18                  spread. It's been found in nurseries, and some of the disease  
19                  has been shipped out of state.

20                 We are -- have full-time staff working on that as  
21                  well, and trying to mitigate that as well.

22                 I don't think it has the same level of progress,  
23                  it's not as well contained. All the venues in which the disease  
24                  is being spread has not yet been identified, but we have made  
25                  some progress. But we're continuing to work extremely hard on  
26                  that as well.

27                 CHAIRMAN PERATA: Anyone here that would like to  
28                  speak in favor of the nominee? Don't feel compelled. Show of

1 hands.

2 [Laughter.]

3 MR. MASON: Good afternoon, Chairman Perata,  
4 Members of the Committee. Paul Mason with Sierra Club  
5 California.

6 I appreciate you raising the issue of the Coho  
7 salmon. And that is one of the reasons -- I believe we sent you  
8 a letter about a week ago, as well as being here when the Board  
9 of Forestry appointees were here last summer, raising our  
10 concerns about the lack of progress on that issue.

11 And as you alluded to, it's continued to be a  
12 lack of progress on that issue. That's been why we've been --  
13 you know, we've tempered our support of the Director or of the  
14 Chief.

15 That said, he's been an extraordinarily good  
16 Director of CDF. He's been open, and accessible, clear, and  
17 demonstrated a real leadership capability.

18 And I just wanted to make sure that we were clear  
19 that a huge part of the problem with resource management, and  
20 specifically with salmon in California, lies with the Board of  
21 Forestry. And that's something that you tried to get after  
22 last year with, unfortunately, somewhat limited success. It's  
23 something that the administration has an opportunity to address  
24 here.

25 In the coming month or so, a number -- I believe  
26 four -- additional vacancies on the Board of Forestry will be  
27 coming up, and that will give an opportunity to the  
28 administration's desire to actually address protections for Coho



1 salmon. We'll, of course, be urging them to do that.

2 But I do want to express my support for Director  
3 Grijalva.

4 CHAIRMAN PERATA: Thank you.

5 MR. WHITE: Good afternoon, Mr. Chairman and  
6 Members of the Committee. Brian White with the California  
7 Forestry Association.

8 We, too, would like to wholeheartedly support  
9 Mr. Grijalva's confirmation for Director of Forestry. He's done  
10 an extremely wonderful job over the last three years, and we  
11 look forward to working with him and his department, and facing  
12 a number of the challenging issues that you and your Members  
13 brought up today. So, we look forward to working with you on  
14 that.

15 CHAIRMAN PERATA: Thank you.

16 MR. RAYMER: Mr. Chairman and Senators, I'm Bob  
17 Raymer, Technical Director with the California Building Industry  
18 Association. I've also been asked to put in a "me too" on  
19 behalf of the American Institute of Architects, and the  
20 California Building Officials.

21 We worked with the Chief and his staff on the  
22 Urban Wildland Interface Regulations for well over a year. When  
23 he first came on board here, that process had already been  
24 underway for three years. It was floundering.

25 When the Chief came on, he basically put us in a  
26 room, told us to come up with a consensus before we get let out.  
27 And we ultimately ended up with the nation's first Urban  
28 Wildland Interface Standard.

1                   It is going to have a -- create a cost increase,  
2     but it's doing it in a very efficient way that results in  
3     productive fire safety. So, for that we applaud him.

4                   Thank you.

5                   CHAIRMAN PERATA: That's what I'm talking about.  
6     You've got a template now.

7                   Anyone further?

8                   Anyone who wants to express opposition? I hope  
9     to hell you don't have a house or any land in California.

10                  [Laughter.]

11                  CHAIRMAN PERATA: Took care of that.

12                  Anything further from the Committee?

13                  SENATOR DUTTON: Move.

14                  CHAIRMAN PERATA: We have a motion to approve.  
15     Please call the roll.

16                  SECRETARY WEBB: Cedillo.

17                  SENATOR CEDILLO: Aye.

18                  SECRETARY WEBB: Cedillo Aye. Dutton.

19                  SENATOR DUTTON: Aye.

20                  SECRETARY WEBB: Dutton Aye. Padilla.

21                  SENATOR PADILLA: Aye.

22                  SECRETARY WEBB: Padilla Aye. Perata.

23                  CHAIRMAN PERATA: Aye.

24                  SECRETARY WEBB: Perata Aye. Four to Zero.

25                  CHAIRMAN PERATA: Unanimous, congratulations.

26                  CHIEF GRIJALVA: Thank you.

27                  CHAIRMAN PERATA: Would Senator Romero and  
28     Assemblywoman Lieber come forward.

1                   SENATOR ROMERO: I came back to visit my old  
2 stomping grounds here in Rules. You're doing well. Carry on.

3                   CHAIRMAN PERATA: Thank you.

4                   SENATOR ROMERO: Thank you, Senator Perata and  
5 Members of the Committee.

6                   It was important for me, and I think you can see  
7 for Assembly Member Lieber, to be here today.

8                   There have been -- there's been much progress.  
9 There's been much hope. There's also been much disappointment,  
10 and there certainly is despair in looking at changes in  
11 Corrections.

12                   But certainly a bright spot in the Department of  
13 Corrections and Rehabilitation is your next nominee for  
14 confirmation, Wendy Still. I can tell you that I've worked with  
15 her for a number of years now, and she has been a champion for  
16 highlighting the opportunities, and the promise, and the needs,  
17 especially for the female offender, not only for the woman  
18 inside the prison, but making links to her family and her  
19 children.

20                   I really can think of nobody else who really has  
21 moved us as far as we've come on addressing the opportunities  
22 for rehabilitation for female offenders. She's a bright spot  
23 in the Department, and I wanted to come today to urge your very  
24 strong affirmation of her nomination to this post.

25                   CHAIRMAN PERATA: Thank you.

26                   ASSEMBLY MEMBER LIEBER: Thank you.

27                   It's a pleasure to be here before the Committee  
28 to also urge the confirmation of Wendy Still. As Senator

1 indicated, Wendy Still has been very important to the Members of  
2 the Legislature, and in particular to the Legislative Women's  
3 Caucus as we try to make positive change for women inmates in  
4 California.

5 Our office has worked extensively with Ms. Still  
6 on a couple of bills. The one that probably comes to mind the  
7 most in terms of our work with her was our bill dealing with  
8 pregnant inmates. And it is really truly impressive to see  
9 someone who has the energetic commitment that Wendy Still has in  
10 this area, the creativity, who has real commitment to  
11 collaboration, not just within the Department, but also with the  
12 Members of the Legislature.

13 And we were able to get a number of advances in  
14 that bill to ban the Department from shackling women during  
15 labor, delivery, and recovery afterwards, and to mandate  
16 prenatal care, prenatal vitamins, and dental cleanings for  
17 women.

18 But we were also able within the Department, on a  
19 very quick basis, to get appropriately sized clothing and shoes  
20 for pregnant women, so that they could leave their housing units  
21 and go out and get medication, and get to their meals, which  
22 they were not able to do without changes in sizes of shoes and  
23 clothing.

24 So, these are real base-line dignity issues that  
25 she has shown a very, very exemplary commitment to. And I hope  
26 that the Committee will confirm her to this position.

27 CHAIRMAN PERATA: Thank you. Thanks for being  
28 here, both of you.



1 SENATOR ROMERO: Thank you.

2 CHAIRMAN PERATA: Ms. Still.

3 I like you already because you've got a simple  
4 last name.

5 [Laughter.]

6 MS. STILL: I have my husband to thank for that.

7 CHAIRMAN PERATA: Is he here.

8 MS. STILL: No, he's not.

9 Thank you, Chairman Perata. Good afternoon,  
10 Members of the Committee. My name is Wendy Still.

11 I'm here before you today seeking your  
12 confirmation for the position of Associate Director, Female  
13 Offender Institutions, for the California Department of  
14 Corrections and Rehabilitation.

15 I am proud to have been a public servant for the  
16 past 29 years, and to have provided leadership for the female  
17 offender reform efforts since January of 2005. I'm honored to  
18 have been appointed by Governor Schwarzenegger as the first  
19 Associate Director for Female Offender Institutions in April of  
20 2006.

21 In December of 2004, the Little Hoover Commission  
22 severely criticized the Department due to the lack of gender  
23 responsive programs and services for female offenders and  
24 parolees. Subsequently in January, 2007, the Little Hoover  
25 Commission recognized the Department for the progress that had  
26 been made toward improving our female offender programs and  
27 services as a sign of hope that systemic change is possible  
28 within the Department.

1                   This progress has been possible due to my  
2 continued leadership and the collaborative efforts and support  
3 of the administration, legislative representatives, the National  
4 Institute of Corrections, national experts, treatment  
5 providers, wardens, parole administrators, educators, health  
6 care and mental health experts, the Commission on Status for  
7 Women, the Little Hoover Commission, and many other dedicated  
8 internal and external stakeholders.

9                   I would like to also express my thanks and love  
10 to my husband Michael, children Dalton and Melissa, and to my  
11 family whose support and encouragement gave life and meaning to  
12 this exciting and very rewarding journey.

13                  The goal of our collective reform efforts is to  
14 create gender responsive programs and services for female  
15 felons, improve outcomes, support family reunification, and help  
16 break the intergenerational cycle of incarceration for women and  
17 their children.

18                  While we've made much progress in many areas,  
19 much more is still needed. My role is to provide the vision,  
20 voice, energy, and heart to ensure our reforms continue to be  
21 successfully implemented.

22                  I'm pleased to answer any questions that you may  
23 have.

24                  CHAIRMAN PERATA: Thank you.

25                  First of all, I want to thank you for being  
26 willing to do the job. There has been nothing more vexing in  
27 the time I've been in the Legislature than the Corrections  
28 system. To have people who are willing to continue to go to

1 work in a position that you're in is gratifying. So, thank you  
2 for doing that.

3 You answered the questions that were given in  
4 writing rather thoroughly, but I have some questions. Where are  
5 the institutions over which you have responsibility?

6 MS. STILL: I have oversight responsibility for  
7 the California Institution for Women, the Correctional  
8 Rehabilitation Center, Valley State Prison for Women, and the  
9 Central California Women's Facility.

10 In addition to that, I have oversight  
11 responsibility for community facilities that include the Leo  
12 Chesney Community Correctional Facility in Live Oak, and the  
13 Community Mother Prisoner Programs. We have three: one in  
14 Pomona; one in Oakland; and one in Bakersfield. And the two  
15 Family Foundation Programs, one in Santa Fe Springs, one in San  
16 Diego, soon-to-be one in Fresno. And in addition to that, the  
17 three female conservation camps.

18 CHAIRMAN PERATA: What's the status of the  
19 overcrowding, just generally speaking?

20 MS. STILL: We -- across the board in the  
21 facilities we run -- we're about 189 percent overcrowded.

22 Our goal is, by shifting the population, the  
23 nonserious, nonviolent women out to community-based programming  
24 that provides better linkages for them and supports family  
25 reunification wrap-around services, that it will allow us to  
26 help decrease the overcrowding.

27 CHAIRMAN PERATA: Do you have any estimate? In a  
28 perfect world, if we were able to do that, would that bring you

1 down to 200 percent or below capacity?

2 MS. STILL: It wouldn't bring us down to below  
3 capacity. It would be dependent upon how quickly we shifted  
4 out. It would bring us close to probably, just a rough  
5 estimate, about 110-125 percent of the prisons that -- for the  
6 population that remained.

7 CHAIRMAN PERATA: How does the overcrowding  
8 effect the programing? I'll talk a little bit more about that.  
9 I was looking at some of the course offering statistics.

10 The Governor has said that one of the reasons we  
11 need to build more prisons is that the rehabilitation part of  
12 the job cannot be done.

13 Is that generally your experience? Are you being  
14 crowded out?

15 MS. STILL: The program space is being crowded  
16 out for critical space, such as needs for basic dental, medical,  
17 mental health type space for those to work in.

18 And in addition to that, the crowding also  
19 creates secondary problems. The staff vacancies, filling posts.  
20 When you have a -- when you don't have enough staff to fill your  
21 posts, then you end up with program modifications, which then  
22 doesn't allow the women or the men to get to programs in the  
23 event that you have a high vacancy level.

24 So, certainly the crowding does impact the  
25 operation significantly.

26 CHAIRMAN PERATA: How are you doing on custody  
27 vacancies?

28 MS. STILL: Probably across the board roughly



1 about 12 percent, but it varies plus or minus. We have  
2 academies that come in.

3 We are not as bad off as some of the  
4 institutions, which experience an over 20 percent vacancy.

5 CHAIRMAN PERATA: Are you still double shifting  
6 anywhere.

7 MS. STILL: Yes, yes. Unfortunately, we are  
8 still double shifting, a lot of double back shifts.

9 CHAIRMAN PERATA: On the programing side, the  
10 average reading level is sixth grade, six-and-a-half. And yet,  
11 I noticed that on your response to Question Eight, and looking  
12 at the number of classes that are being offered at various  
13 institutions, it's a majority of like one.

14 Just talk a little bit about what that means in a  
15 practical world as you're trying to rehabilitate and return  
16 productively women to the community and also back to their  
17 families.

18 MS. STILL: Certainly literacy is a major concern  
19 in terms of improving their programs. So, if we can improve the  
20 women's literacy, that then improves their self-sufficiency and  
21 improves their chances for a more positive outcome.

22 The specific things that we've done, and I guess  
23 I'll answer your question in very short, is that the amount of  
24 teachers and resources you have directly impacts how many  
25 programs that you can offer. In addition to that, space also  
26 impacts how many programs that you can offer.

27 But there are some things that we have done, even  
28 in light of -- with the resources the way they are right now.

1 For example, our expansion up at Leo Chesney Live Oak, we have  
2 -- we're in the process of putting in a literacy lab and adding  
3 an academic program.

4 Very pleased relative to Valley State Prison and  
5 CCWF State Prison, coordinated with the assistance of Senate  
6 Rules, getting the Board of Cosmetology in to begin licensing.  
7 We've got two brand -- licensing for cosmetology program. We  
8 actually had a woman tested on a Thursday who paroled on a  
9 Sunday, who had been successful and achieved her cosmetology  
10 license.

11 Also, we've worked to bring in two new vocational  
12 programs to Valley State and CCWF. It's called C Tech. It's a  
13 very innovative program, very short in duration, eight-week  
14 program to where women become certified in that and can then go  
15 out and get jobs as cable installers.

16 And so, while we do have limits on our resources  
17 that we have right now, I continue to reach out and work with  
18 my -- part of our matrix organization responsible for education  
19 to improve them.

20 But space limitations are real, and the amount of  
21 resources that we have in terms of the number of teachers are  
22 constraints.

23 CHAIRMAN PERATA: When you get up every morning  
24 and you think about community-based beds -- of course, all of us  
25 think about those -- what's your sense? Are you going to retire  
26 before this happens? What is it, candidly, as candid as you  
27 feel like you can be?

28 MS. STILL: Well, I'm in it for the long haul.

1 And I have several years left to provide service.

2 But I -- candidly, our bids are due back on April  
3 the third. And while we are anticipating -- we're wanting  
4 approximately 4500 beds, we'll receive a number less than that.  
5 Currently in play, we have 2800 initial beds, pre-bids, and we  
6 won't know what we'll have finally.

7 CHAIRMAN PERATA: So, 2800 beds.

8 MS. STILL: Yes, 2800 beds have been proposed. I  
9 anticipate that we will be going back out for a second round.  
10 The soonest, based upon the timeline that we could actually, I  
11 believe, bring beds up would be in early '08 to late '08,  
12 depending upon whether it was a facility where there would be  
13 modifications to or a brand-new build-to-suit.

14 We have some very strong proposals with some very  
15 experienced providers, so I'm very much looking forward to these  
16 initial packages and the bid openings.

17 In addition to that, the community-based services  
18 don't just stop with those beds. A really important linkage is  
19 the residential aspect of it, the post-release. And we're also  
20 working on putting out 575 beds for residential multi-service  
21 centers that will be the hand-off for women as they parole, and  
22 so they'll have those transitional services, which for women,  
23 that's a key linkage.

24 CHAIRMAN PERATA: Thank you.

25 I'm responsible for asking about older people.

26 [Laughter.]

27 CHAIRMAN PERATA: It's type casting, and I hate  
28 it.

1 [Laughter.]

2 CHAIRMAN PERATA: Your population of older women  
3 is growing?

4 MS. STILL: Yes.

5 CHAIRMAN PERATA: How do you treat the population  
6 at it ages, and what effect does it have over all?

7 MS. STILL: It absolutely has an effect on prison  
8 operation as well as the women themselves and the type of  
9 programs and services that we offer.

10 Some of the things that we've done at CIW, which has  
11 probably been our flagship is, we have in the system now about  
12 nine percent of our population is over -- we roughly have, I  
13 think, a little over a thousand, but the significant program  
14 things we've done is issuing a second mattress, looking at our  
15 osteoporosis policies. We've worked with legal services with  
16 prisoners, and we have a lot more work to do in that area. But  
17 there are things that we've done at CIW, giving them an elderly  
18 ID card, and also being cognizant of the assignments that we're  
19 actually placing the women in.

20 As our population grows grayer, so to speak, we  
21 also have initial organizations or inmate groups that have been  
22 created. At CIW we have Golden Girls. At CCWF, I believe we  
23 have Silver Belles. And so, what the population is also doing  
24 is working together to develop organizations. And I meet with  
25 them when I go to the institution, and I have, and will continue  
26 to do so, as well as work on our policies.

27 But simple things, such as get-down policies, you  
28 know. If you have somebody that's elderly, and you have a



1 get-down policy when there is an incident, an older offender,  
2 whether it be man or woman, can't easily get down. All the way  
3 to how we do bed assignments, you know: top bunk or bottom  
4 bunk. And those are very important issues, and we need to  
5 address them.

6 CHAIRMAN PERATA: Thank you.

7 SENATOR CEDILLO: Just about discharge planning  
8 on parolees.

9 I noted your experience on the Homeless  
10 Commission.

11 Just some comments on the infrastructure, and I'm  
12 impressed.

13 The challenge is putting together the  
14 infrastructure, getting the beds, getting wrap-around services,  
15 getting the locations, and then getting communities that will  
16 receive.

17 So, just some comments in that area.

18 MS. STILL: I think that there are a lot of  
19 challenges when we're changing to retool a system like ours.

20 I think that we've had a lot of success in the  
21 way that we've done that, as we've reached out to experts to  
22 help and created a partnership at the table with a lot of good  
23 input. And I think that's done several things, not only bring  
24 expertise to the Department that we didn't have, and that we  
25 needed to help form our policies and practices based upon  
26 evidence, but it helped -- started to begin to create community  
27 linkages.

28 Because in the end, when we go to roll these beds

1 out, and to actually award the contracts, a key thing is going  
2 to be dealing with placing the facilities and getting the  
3 communities to accept them. These are nonserious, nonviolent  
4 offenders that we're talking about moving out to the  
5 communities. Certainly they are coming home, and they are in  
6 for very short -- shorter sentences in comparison to what will  
7 remain in the prison.

8 So, it's really critical that we provide  
9 services, treatment wrap-around services, literacy services.  
10 And these facilities will have literacy labs in them, as well as  
11 vocational services and treatment services, as well as -- family  
12 reunification is a really key motivater. And by placing these  
13 facilities in the communities where the women are actually  
14 located in, and going back to, we will be able to better create  
15 those linkages, like for example, self-help sponsors, creating  
16 those organizations -- AA, NA -- physically having them come  
17 inside the facility, and then that creates a bridge for when the  
18 woman paroles, to go out to those organizations and those groups  
19 and already have that support network created.

20 The risk and needs assessment, critical. We've  
21 recently received approval to do risk and needs as part of SB  
22 618 program that's a pilot partnership down in San Diego. And  
23 with all the women and men that participate in those two pilots,  
24 one's RJD and one's CIW, as well as up at Valley State. And  
25 we're basically going to begin at those two locations.

26 As the SB 618 women in the pilot and at Valley  
27 State, ultimately when the woman comes in for an initial review  
28 and assessment, that'll be done at intake, as well as the 4500

1 beds. Part of our design is to have that risk and needs  
2 assessment done in the very beginning and separate, so the woman  
3 that's in county jail doesn't go inside to prison, that she  
4 actually goes to a community-based facility.

5 But I'm a realist. I've been around a long time,  
6 you know. I've done this work for a very long time. I've  
7 worked Admin, I've worked Contracts, I've worked Prisons, and  
8 I've worked with community-based organizations. And I know that  
9 the -- developing the relationships are going to be really  
10 critical to actually deliver the service and deliver this  
11 program. It's going to take a lot of hard work and energy, and  
12 willing to partner with people.

13 And I think that that's what I can bring to the  
14 table.

15 SENATOR CEDILLO: Tell me a little bit about  
16 strategies to confront and deal with NIMBY-ism. As you place  
17 out within the community, and I know you've done a lot of work  
18 on homelessness, and it's a real challenge for us.

19 What are some of your experiences?

20 MS. STILL: My direct experience is, a few years  
21 ago I was the Vice Chairperson in Placer County for developing a  
22 homeless plan. And so, I really got a bird's eye view of just  
23 what the opposition could look like.

24 As part of when we developed our staffing pattern  
25 for our 4500 beds, we actually put in three community resource  
26 managers so that they would help us go into the communities to  
27 help with that educational awareness, as well as our Gender  
28 Responsive Strategies Commission. We moved the commission

1 meetings around to the different communities, trying to also  
2 help with that education and partnership, as well as work with  
3 our experts, such as Barbara Bloom, Barbara Owen, who also have  
4 community linkages, as well as Joan Petersilia.

5 So, we're trying to reach out in many ways.

6 CHAIRMAN PERATA: Anyone present who'd like to  
7 come and speak in support of the nominee?

8 MR. WARREN: I know you're surprised, Senator  
9 Perata. You expected me to be speaking in opposition.

10 CHAIRMAN PERATA: Yes.

11 MR. WARREN: My name is David Warren. I'm here  
12 on behalf of Taxpayers for Improving Public Safety.

13 I've known Wendy for ten years. She is one of  
14 the shining examples of the Department of Corrections. I'd like  
15 to give you two excellent examples of the type of effort that  
16 she's put forth.

17 Approximately three years ago, I observed a  
18 Jewish woman brought a tallis, yarmulke, the Jewish Bible, and  
19 prayer book to a prison. The correctional officer at the gate  
20 dropped them on the ground, stepped on them, and said that they  
21 could not bring that -- those particular items into the visiting  
22 room.

23 As you might imagine, the rabbi for this woman  
24 contacted the rabbi -- the head rabbi in Los Angeles, who called  
25 my rabbi, who -- the only four-letter word I ever heard from him  
26 before was "Amen." He called me and wanted to know, "What the  
27 hell was going on?"

28 After I picked myself up off the floor, I sent



1 Wendy an e-mail on a Sunday. Approximately six hours later I  
2 received an e-mail back telling me that on a three-day holiday  
3 weekend, the warden at the prison had gone to the prison to  
4 straighten out the matter. That's well beyond the call of duty.

5 Unfortunately, that correctional officer is still  
6 in the same position, doing the same thing now that there's a  
7 new supervisor there, but that's neither here nor there.

8 Another excellent --

9 CHAIRMAN PERATA: Oh, I beg to differ.

10 MR. WARREN: Well, the Lord knows I've tried, and  
11 I've been an abject failure in getting that corrected.

12 The other example, there was extraordinarily ill  
13 woman at CIW. Warden Davidson, whom I have nothing but nice  
14 things to say about, was on vacation. I called Wendy to obtain  
15 assistance. And on a Sunday, in the evening, she got the  
16 medical director at the California Institution for Women to go  
17 back to work and make sure the woman was transported to a  
18 hospital.

19 Anybody that is working 24 hours a day, seven  
20 days a week, although it drives me nuts, is the kind of person  
21 we want working at the Department of Corrections. The standing  
22 joke is that if Wendy's not sitting in her chair talking to  
23 someone and on the telephone, she's walking around with her  
24 Blackberry and a cell phone at the same time.

25 She is the kind of civil servant we need more of,  
26 and I can only speak in extraordinary praise of her efforts.  
27 She would be a welcome -- she is a welcome addition and very  
28 refreshing at the Department of Corrections.

1 Thank you.

2 CHAIRMAN PERATA: Thank you.

3 MS. WIBERG: Good afternoon. I'm Mary Wiberg,  
4 Executive Director of the State Commission on the Status of  
5 Women.

6 It's been a pleasure to work with Wendy the last  
7 two years. I echo what Senator Romero and Assembly Member  
8 Lieber better said about the leadership that she has provided.

9 The Commission has had a long history of being  
10 interested in how women were treated in the prisons, and what  
11 kind of plans were made to help them adjust to society when they  
12 were released.

13 We support the nomination of Wendy to this  
14 position and encourage your approval.

15 CHAIRMAN PERATA: Thank you.

16 MS. OWEN: Hello. My name is Barbara Owen. I'm  
17 a Professor of Criminology at California State Fresno.

18 And I've been conducting research on the  
19 California prison system for about 25 years. And as a  
20 professor, I'm used to talking a long time, but I'll make my  
21 remarks brief.

22 [Laughter.]

23 MS. OWEN: I'd like to point out two things  
24 firstly. One, with over 11,000 women in the institutional  
25 aspect of the CDCR, Ms. Still supervises more inmates than most  
26 directors of entire prison systems in this country. And that's  
27 a very important point because it goes to her leadership and her  
28 ability to manage a system that's very, very large.

1                   Second, I'd also like to point out that very  
2 often we expect the prisons to solve the failures of other  
3 institutions, of the school, of the families, of the  
4 communities. And these problems are laid at the feet of the  
5 prison, and we say, well, how come all these people still have  
6 these problems? Aren't you fixing them? And I think that's  
7 very true of women.

8                   I urge your confirmation of Ms. Still for three  
9 very important reasons. First, she possesses a vision of women  
10 services that will improve the lives of women, their children,  
11 and communities. She has created a collaborative, transparent  
12 and public process through the Gender Responsive Strategies  
13 Commission, of which and I most people in this room are a  
14 member.

15                   And I'd also like to point out, I'm a paid  
16 consultant to CDCF, in the interest of truth in presenting here.

17                   Ms. Still also employs national standards in  
18 three very important areas: gender responsive practice and  
19 policy, system reform, and as she indicated earlier, individual  
20 rehabilitation. She's been able to combine these three  
21 approaches to creating the reform that you hear today.

22                   And as the other presenter noted, she combines  
23 her personal commitment with enormous personal energy not  
24 usually found in public servants. And as many of the people who  
25 will come before you will say, she has initiated and managed the  
26 most successful of all the CDCR reforms.

27                   She embodies the best of public servants, and I  
28 urge your confirmation.

1 Thank you.

2 CHAIRMAN PERATA: Thank you.

3 MR. RICHTER: Good afternoon, Mr. Chair and  
4 Members. My name Dale Richter. I'm the lead co-chair of the  
5 Statewide Family Council, an organization of families that has  
6 been meeting with the Department of Corrections officials and  
7 Wendy, of course, for years and years to work on issues of  
8 importance to families with an incarcerated family member.

9 I'd like to start off by commenting on our  
10 efforts to restore additional visiting back to the prisons. As  
11 you recall, in earlier budget cycles, somewhere I believe in the  
12 '02-03 cycle, visitation at all 33 institutions was reduced to  
13 two days. Well, that resulted in a huge impact and hardship on  
14 families who would travel and incur considerable expenses for  
15 lodging, meals, hotel, et cetera. And our visiting times would  
16 be curtailed and sometimes terminated within an hour of arriving  
17 at the institution to visit.

18 As we fast forward to 2006, and in the interim  
19 three years, we continued to work with the Department,  
20 encouraging the Department to do everything it could to restore  
21 an additional day of visiting back. So finally in the budget  
22 process last spring, we got Secretary Tilton to give the nod to  
23 Wendy and other officials in the Department to begin working  
24 with us to restore -- to plan and work toward restoring that  
25 third day.

26 And I have to say, Wendy was instrumental in  
27 that, and we worked very hard with Wendy and a group of wardens  
28 and Family Council members. And we achieved the third day of



1 visiting at 10 prisons in '06.

2 Now, we're also continuing to work to encourage  
3 the Department to bring that third day back at additional  
4 institutions, and we feel we're on solid footing. We believe we  
5 have the support of -- in addition to Wendy's support, we  
6 believe the Department is willing to continue to support that as  
7 well.

8 We are very appreciative of Wendy's leadership,  
9 professionalism, and her commitment to improving visiting  
10 conditions for prisoners and their families. We strongly  
11 support her confirmation.

12 And I would also make note briefly to a couple of  
13 other initiatives that are important to families that Wendy  
14 supports, and we also are asking the Department to continue  
15 supporting these efforts, too, and that is the creation of an  
16 Office of Family Services within the Department of Corrections  
17 to fulfill all the needs of families in our interactions with  
18 the Department.

19 I have a son that's been incarcerated for 13  
20 years, and these issues are very important to folks like us, and  
21 we will continue to engage in these conversations and efforts to  
22 improve conditions for us. And for that, we thank Wendy for her  
23 ongoing support, and we look forward to continuing to work with  
24 her.

25 Congratulations on your nomination, and thank  
26 you.

27 CHAIRMAN PERATA: Thank you.

28 We have quite a few people who'd like to speak.

1 If we can truncate "me too," that's good. We'd appreciate that  
2 just in the interest of time and the attention span of the  
3 Chair.

4 Yes, sir.

5 MR. TATUM: I'll try and make this short but  
6 sweet.

7 My name is Richard Tatum. I'm the State  
8 President of the California Correctional Supervisors  
9 Organization, which represents correctional supervisors and  
10 managers also within the Department of Corrections and the  
11 Department of Juvenile Justice.

12 With that, I've known Wendy for several years,  
13 for about 15 years. Like I say, her honesty and integrity, and  
14 that's a lot of us as a union is a big important thing for us,  
15 along with her knowledge.

16 So with that, we give the full support of Wendy  
17 for this and request your confirmation.

18 Thank you.

19 CHAIRMAN PERATA: Thank you.

20 MS. FARMON: Thank you, Senators. I appreciate  
21 the opportunity.

22 I'm a "me too" but I'm a "me too" from a  
23 different perspective. I'm Teena Farmon, and I retired from the  
24 California Department of Corrections after 33 years, 15 years of  
25 which was spent supervising female facilities.

26 Wendy has stepped into a department that  
27 historically refused to recognize that there was any difference  
28 between male inmates and female inmates. And with the

1 Legislature's help and Wendy's energy, commitment, fortitude,  
2 and ability to bring people forward, she not only has connected  
3 with the community, but she has brought the California  
4 Department of Corrections and Rehabilitation out of the Dark  
5 Ages as it relates to female offenders.

6 We often say it's easy to know there's a  
7 difference between men and women; in the history of Corrections,  
8 they really didn't think there was a difference.

9 So, I recommend Wendy's support based on her  
10 ability to bring the Department out of the Dark Ages on this  
11 particular issue.

12 And I spent 33 years recognizing their failure to  
13 move. Thank you, Wendy.

14 CHAIRMAN PERATA: Thanks for being here.

15 MR. LINDBURG: Thank you, Senator Perata. Jim  
16 Lindburg on behalf of the Friends Committee on Legislation in  
17 California.

18 As a result of our advocacy efforts on behalf of  
19 family members of the incarcerated, we would like to say "we  
20 too" on behalf of Wendy Still.

21 Thanks.

22 CHAIRMAN PERATA: Thank you.

23 SISTER JABRO: I'm Sister Suzanne Jabro. I run  
24 a nonprofit in Los Angeles called Women in Criminal Justice, and  
25 we have two programs. One is the Get on the Bus Program, taking  
26 children to see their moms in the women's prisons over a  
27 Mother's Day weekend, and the new Chowchilla Family Express.

28 I'm here to let you know that I have worked with

1 Wendy, and she is a shining, star so I'm a definite "me too."

2 And I want to say that there are two qualities  
3 that this woman possesses that we probably all would want to  
4 possess ourselves. The first is that she has an ability to use  
5 radical common sense.

6 And the other piece, a gift that she has, is that  
7 she wears compassion like a garment. She does not see -- she  
8 does see women in prison as women and their children and their  
9 families. And it's a joy to be able to see someone working in  
10 the Department who hasn't lost sight of the humanity of all of  
11 us.

12 So Wendy, welcome.

13 CHAIRMAN PERATA: Thank you.

14 MS. JONES: Since I'm last I will be brief. My  
15 name is Kathleen Jones. I'm a correctional officer. I've been  
16 a correctional officer for 23 years. I'm also holding currently  
17 the position of President, CCPOA President at CIW.

18 I too want to voice support for Wendy Still based  
19 on that fact that she has true understanding as to what the  
20 reform for the women is. And it is long over due.

21 And with her faith, I think we should continue to  
22 on support her faith because within our hearts, she knows that  
23 she can bring, like she said of the Dark Ages, into a new light.

24 So, I would hope that you guys continue to keep  
25 her on board and giving us a face that we need.

26 Thank you.

27 CHAIRMAN PERATA: Thank you.

28 Anyone in opposition? You're still supporting.



1                   MR. SWEENEY: Yes. I'm support. Just happen to  
2 be from your district.

3                   [Laughter.]

4                   CHAIRMAN PERATA: And I was going to overlook  
5 you.

6                   MR. SWEENEY: The bottom line is -- I'm James  
7 Sweeney, legislative advocate, California State NAACP. I also  
8 am a Governor's appointee to the Council on Mentally Ill  
9 Offenders. I was appointed by the prior governor, the  
10 Legislator who put together a council.

11                   In any event, the bottom line is that, one, you  
12 have to be able to deal with diversity in an effective manner,  
13 and she has proven that she can deal with the diversity with  
14 respect as well as insight and perspicacity.

15                   Finally, I think that we are looking at a time  
16 when we need people who are willing to do it differently. You  
17 can't do the same things. And what I find is that she has  
18 proven to be open to doing things differently, and those things  
19 are crafted so that women and their needs are being dealt with,  
20 so that we reduce the recidivism rate. These -- this breaks the  
21 multi-generational context of what has happened in our society,  
22 so that the children and their -- the others who grow up  
23 understand that there is another way. And I think that we have  
24 a positive, first-rate individual who is willing to work with  
25 this phenomenon.

26                   Two-thirds of the women that are being impacted,  
27 two-thirds or 70 percent are also women of color. And I along  
28 with others wholeheartedly support her.

1 And so, that's my long-winded "me too."

2 [Laughter.]

3 CHAIRMAN PERATA: Thank you.

4 MR. GEIGER: Briefly, my name is Chris Geiger. I  
5 served on the Gender Responsive Strategies Commission,  
6 representing the University of California, San Diego, Center for  
7 Criminality, Addiction, Research, Training and Application.

8 And I just want to echo the sentiments. We're  
9 strongly in support of a woman who is a real bright spot in the  
10 Department and has provided extraordinary leadership and  
11 vision.

12 And for somebody who's worked with the Department  
13 for nearly 20 years, I can tell you that it's rare to find a  
14 civil servant of this caliber and capacity and vision. And I  
15 wholeheartedly ask thank you endorse her to this position.

16 CHAIRMAN PERATA: Thank you.

17 Any further support? Opposition?

18 MS. HUANG: Thank you, Senator Perata.

19 My name is Vanessa Huang, and I work with Justice  
20 Now in Oakland, California. We work to protect the legal and  
21 human rights of people in California's women's prisons. We  
22 do -- we provide direct legal services and do human rights  
23 documentation, and work to stop imprisonment.

24 Justice Now has severe reservations about Wendy  
25 Still's commitment to improving the lives of people in women's  
26 prisons in a manner consistent with California's best interest.  
27 And I just want to outline two related points based -- on which  
28 our objections are based.

1           The first is, as Chair of the GRSC, Gender  
2   Responsive Strategies Commission, she has facilitated the  
3   development of a policy that is threatening to harm thousands of  
4   people in the women's prisons, their children, and their  
5   families. This policy would, as most of you are aware, would  
6   build -- it's the community beds expansion plan -- would build a  
7   whole new system of mini prisons for women that would expand the  
8   capacity of the prison system for women up to 40 percent in two  
9   years.

10           This, you know, we've -- just in the -- and I  
11   apologize again for submitting our opposition letter to the  
12   Committee so late, part of the reason being that just in the  
13   last month alone, we've heard from over 2200 people in prison,  
14   in California's women's prisons, opposing this policy, writing  
15   letters. And it's just been over capacity.

16           Under Ms. Still's leadership, the GRSC's using a  
17   theory of gender responsiveness purportedly aimed at improving  
18   the lives of people in the women's prisons to deceive  
19   Californians into a policy that will have devastating fiscal and  
20   human consequences. Specifically, this theory uses the needs of  
21   people in women's prisons, which are very real. Our  
22   organization has worked for years, and people on staff have  
23   worked for years to meet the needs of people in women's prisons,  
24   in order to foster public support for prison expansion.

25           In contrast to what the proponents of this policy  
26   claim, and what Ms. Still has been pushing, again, we've heard  
27   from over 2200 people in the prisons opposed to this policy.  
28   And I just want to relay on their message to you, which should

1 be in all your folders. But they wrote that continuing to use  
2 state funds for prison expansion will only drain more resources  
3 from the services we truly need and that address the root causes  
4 leading to people's imprisonment. And that's the first point on  
5 their petition that they've been circulating.

6 The second point is, building many prisons for  
7 women does not respond to our need or the needs of our families,  
8 our communities, or our children. The proposed mini prisons are  
9 being sold as a way to bring us closer to home, but in actuality  
10 the CDCF contract bid proposal would further limit family  
11 visitation.

12 The third point they make is that  
13 decentralization and expansion of both the men's as women's  
14 system will exacerbate the egregious human rights abuses and  
15 gross medical neglect within CDCR facilities. So, there's a  
16 fear that we've been hearing from all of our clients, you know,  
17 from the last session through now. We've gone on prison visits  
18 every week, and they feel more vulnerable in this new -- if this  
19 system were to be built.

20 The last point that they make is that no place  
21 staffed by correctional officers will ever be community-based or  
22 an alternative to incarceration, because the same negative  
23 environment causing so many of the problems we currently face  
24 will continue to exist.

25 This brings me to my second point of objection.  
26 Our second point of objection from Justice Now is that from my  
27 understanding from the meeting notes, Ms. Still presided over  
28 the GRSC's July 18th, 2006 meeting in which its Health Care



1 Subcommittee proposed to affirmatively offer sterilization  
2 during labor and deliver as a, quote-unquote, "necessary medical  
3 procedure."

4 The meeting notes read that Don Martin informed  
5 the committee who oversees the VSPW's health care, informed the  
6 commission of the progress of Health Care Subcommittee.

7 The Health Care Subcommittee discussed and made  
8 the following recommendations, and then the notes which I  
9 forwarded to everyone on the Committee, section labeled "Birth  
10 Control and Sterilization." The committee discussed the cost  
11 effectiveness of elective sterilization, either post-partum or  
12 coinciding with Cesarean section. There would be no cost  
13 increase in terms of transportation and admission if they were  
14 at the hospital during a Cesarean section.

15 The current contracts language reads as, quote-  
16 unquote, "Doing what is medically necessary." This is derived  
17 from Title 15, which states that sterilization is an elective  
18 surgery, and that the CDCR does not provide elective surgeries.  
19 So then the notes continue to read, to prevent amending Title  
20 15, the language could be incorporated in to the Inmate Medical  
21 Services Policies and Procedures, Volume Four --

22 CHAIRMAN PERATA: Excuse me. You're quoting her?

23 MS. HUANG: This is -- this is the meeting notes  
24 that were taken.

25 CHAIRMAN PERATA: That's not her.

26 MS. STILL: No, it's not me.

27 CHAIRMAN PERATA: She's not responsible for the  
28 meeting notes.

1 MS. HUANG: Well, I just wanted you to be clear  
2 on what the meeting notes read, and then what our objection is.  
3 And I'll voice what our objection is to what happened at the  
4 meeting.

5 CHAIRMAN PERATA: That was the meeting. What  
6 does that have to do with her?

7 MS. HUANG: As Chairperson of the Gender  
8 Responsive Strategies Commission, she --

9 CHAIRMAN PERATA: You're objecting to a  
10 discussion that went on at the meeting?

11 MS. HUANG: No. I'm objecting to her failure to  
12 protect the reproductive rights of people in California's  
13 women's prisons --

14 CHAIRMAN PERATA: You thought she should have  
15 been advocating against?

16 MS. HUANG: Yeah. I just wanted to read what  
17 happened to you, and then note that it was very alarming to  
18 Justice Now that, whereas in other parts of the meeting notes,  
19 discussion objections --

20 CHAIRMAN PERATA: Was anybody there?

21 MS. HUANG: -- that were raised were in the  
22 meeting notes. Whereas in this section --

23 CHAIRMAN PERATA: You had somebody there from  
24 Justice Now?

25 MS. HUANG: No, no, no, no. We -- we couldn't  
26 sit on this commission because our clients' trust in us would --

27 CHAIRMAN PERATA: Okay.

28 I want to just interrupt you again to say that

1 most of your objections you should take up with the Governor,  
2 because those are his policies. She's an apparatchik. I think  
3 her responsibility is to do the best she can with the policy.

4 So, I understand, and I would be happy to let the  
5 Governor know that you don't like what he's doing, but in all  
6 fairness, she's a noncombatant here.

7 MS. HUANG: Well, yeah. Our objection to these  
8 -- what happened, from what we see from these meeting notes is,  
9 her lack of action against the recommendation is shocking to us.  
10 That it flies in the face --

11 CHAIRMAN PERATA: You should hang around here a  
12 little longer.

13 [Laughter.]

14 MS. HUANG: I mean, that's our role as advocates;  
15 no?

16 CHAIRMAN PERATA: I know.

17 MS. HUANG: Yeah. I mean, it's just widely  
18 understood nation wide that this exact tactic of affirmatively  
19 offering the, quote-unquote, "choice" of sterilization during  
20 the pain and stress of labor was often systematically performed  
21 as an involuntary procedure by the U.S. government for decades;  
22 right? This is -- these are the policies that led to the forced  
23 sterilization of over a quarter of indigenous women in --

24 CHAIRMAN PERATA: Now you're going into a  
25 polemic. There's a time and place for this. This is neither.

26 So, we will stipulate now that you are opposed to  
27 her.

28 I would just caution you to be careful what you

1 wish for.

2 MS. HUANG: Thank you.

3 CHAIRMAN PERATA: Thank you.

4 Anyone else? Yes, ma'am.

5 MS. DARVES: Hello. My name is Natalie Darves.  
6 I'm a legal advocate at Justice Now.

7 I'm coming up here to more speak on behalf of the  
8 direct service work that I do personally with persons in the  
9 California women's correctional facilities.

10 I do work primarily with people at Valley State  
11 Prison for Women and California Women's Facility, which are two  
12 facilities that Wendy Still presides over.

13 I just want to sort of incorporate some of the  
14 language that I've heard today in the sense of bringing it out  
15 of the Dark Ages. I think that that forces a very real  
16 discussion about what reform really is. And if we're talking  
17 about shifting people back to the community, which is something  
18 that Wendy Still, you know, obviously is advocating for, I think  
19 it's important to note that putting people really in their  
20 families and not still in institutions, even if they're, say,  
21 300 miles closer to their family, is not a real solution to the  
22 issue that we're dealing with.

23 I heard her bring up the idea of breaking the  
24 intergenerational cycle of imprisonment. There's never been any  
25 evidence to support that children going into facilities and  
26 viewing their parents behind bars and in institutions breaks the  
27 intergenerational cycle. We have to realize that the image we  
28 present to our children and how we deal with justice is a way to



1 break this issue. And by building more beds and incarcerating  
2 more people, that is never going to end this issue.

3 I would like to speak to sort of -- if the  
4 oversight from Wendy Still is in any way contribution to what I  
5 witness at VSPW and CCWF, then I and my organization have severe  
6 reservations about her efficacy and leadership.

7 I deal with people all the time who are having  
8 severe medical issues. I am on the phone for hours, being  
9 channeled between people, never getting anyone to do anything  
10 until it becomes very, very, very serious, or until I find  
11 someone who doesn't know the policy, and then they'll speak to  
12 me, and then I find out later that they get reprimanded, or that  
13 the inmate gets taken into the warden and reprimanded.

14 So basically, I don't think that Wendy Still,  
15 even if I understand that she's working so hard on behalf of  
16 these people, I'm not sure that her leadership can change this  
17 system unless we really change the discourse that we're using in  
18 terms of change. So, to be a realist, I think we have to be  
19 very present with the fact that we need a different perspective.

20 CHAIRMAN PERATA: Thank you.

21 MS. DARVES: Thank you.

22 CHAIRMAN PERATA: Anyone further?

23 Would you like to respond just to the --

24 MS. STILL: Yes, I would. Thank you very much  
25 for that opportunity, Mr. Chair.

26 First of all, the Medical Receiver is responsible  
27 for the approval of any policy as it relates to the women and  
28 the men in the system.

1                   And in addition to that, there are constitutional  
2                   protections, as well as state rights, that govern the whole  
3                   sterilization process.

4                   We are not developing any policy, we are not  
5                   working on anything. There was a question that came up. And  
6                   I'm really saddened by the way that it's being presented.

7                   I guess that's all I have to say.

8                   CHAIRMAN PERATA: Thank you.

9                   MS. STILL: It's not true.

10                  CHAIRMAN PERATA: One thing I wanted ask you  
11                  previously is, there have been issues around the delays that  
12                  visitors face. Could you talk a little bit about that?

13                  MS. STILL: Yeah. The volume of visiting is  
14                  really what's created a lot of the delays. And in addition to  
15                  that, everybody knows we're IT-challenged in the amount of  
16                  terminals that we have and the amount of staff to process  
17                  visitors in. All of it's interrelated.

18                  We have done things such as instituting the third  
19                  day visiting that has really significantly helped, because some  
20                  of the traffic, at least at 10 of the institutions, we've been  
21                  able to add that additional day. That's reduced some of the  
22                  traffic and volume on processing.

23                  There are other things that we're working on.  
24                  For example, with the Women in Criminal Justice, the Chowchilla  
25                  Family Express, we're trying to streamline how we're processing  
26                  them.

27                  But it is a real challenge; it is. Trying to  
28                  move that many people through in very short amount of time to

1 maximize the amount of hours of visiting, it's a real challenge  
2 we face.

3 CHAIRMAN PERATA: Anything further?

4 I just want to thank you. As many here who know  
5 you much better than anyone on the panel, you've got a thankless  
6 job. I think that if we could attract more like you, and our  
7 system, I think we could all agree, it's a very shameless one.  
8 For years, we've enjoyed putting people in jail, we just haven't  
9 wanted to pay for it.

10 But having to work in a situation where you've  
11 got a federal court overseer governing part of your activities,  
12 and the overcrowding, and the lack of ability to provide  
13 rehabilitative services I think would have driven me from the  
14 building a long time ago.

15 I would ask you to do one thing. And that is,  
16 the incident at the gate with the Jewish prayer book, I'd like  
17 you to just find out. I'd like you to look at that, because if  
18 that person is still around -- I have a friend who just retired  
19 as the Sheriff of Alameda County. He had a long, illustrious  
20 career. He had five cardinal rules. Violate them, he fired you  
21 on the spot. That would have probably been a hanging offense. I  
22 mean, it was things like taking an apple and using a derogative  
23 epithet.

24 But I would really, as personal request, ask  
25 you -- if the gentleman's still back there, I'd like to know  
26 about that. And I don't deny anything. I mean, I don't know,  
27 but I'd like to.

28 MS. STILL: Yes, Senator. Just for a point of

1 clarification, when the incident first occurred and I  
2 intervened, it was one of my 10 prisons that I had as the  
3 Regional Administrator. It is now out of my purview, but I will  
4 reach out, as I did when there was another issue brought up, and  
5 work with my peer the AD, and we will provide you with that  
6 feedback absolutely. We take it very seriously.

7 CHAIRMAN PERATA: Also, your boss is going to be  
8 traipsing through here soon, so I might bring it up then, too.

9 MS. STILL: I would be glad to handle that,  
10 Senator.

11 [Laughter.]

12 CHAIRMAN PERATA: You excited your family rather  
13 lovingly. Is your --

14 MS. STILL: My sisters are here. My children are  
15 away at college and out of town.

16 My sisters are here, Tammy and Sherry.

17 CHAIRMAN PERATA: Welcome. They were going to  
18 come just in case they needed to come up and give you some moral  
19 support.

20 MS. STILL: Yes. I will point out that I'm the  
21 youngest and they're the oldest.

22 [Laughter.]

23 CHAIRMAN PERATA: That's the thanks you get for  
24 going very far.

25 MS. STILL: No, it's just that they've kept me in  
26 line all these years.

27 CHAIRMAN PERATA: Make her buy the drinks.

28 We have a motion to confirm.



1                   SENATOR CEDILLO: Senator, I was going to add, I  
2   applaud you.

3                   On these strategies about moving people out, I  
4   think all of us find the fact of the overcrowding is abhorrent.  
5   It's shameful. And if it took place in other countries, we  
6   would be critical of the entire systems of other countries for  
7   having such conditions and circumstances for their citizens.

8                   So, I applaud this effort of building out,  
9   decentralizing, trying to create bridges back into the  
10   community, because I don't think at this point, I haven't heard  
11   any other strategies, other than, I mean, there's two directions  
12   we go. Either figure out rehabilitation, and bridges, and  
13   transition to planning, to move people back into society, or we  
14   build more prisons. There's no other option here. No one's  
15   provided any other choices.

16                  And I think just the building of prisons has been  
17   a failed policy for our state, our failure to invest back into  
18   our humanity has not worked, and the building is not working.

19                  I applaud you in your efforts to build these  
20   bridges and bring people back to the community.

21                  So, I'm happy to move.

22                  MS. STILL: Thank you, Senator.

23                  CHAIRMAN PERATA: Thank you, Senator.

24                  Please call the roll.

25                  SECRETARY WEBB: Cedillo.

26                  SENATOR CEDILLO: Aye.

27                  SECRETARY WEBB: Cedillo Aye. Dutton.

28                  SENATOR DUTTON: Aye.

1 SECRETARY WEBB: Dutton Aye. Padilla.  
2 SENATOR PADILLA: Aye.  
3 SECRETARY WEBB: Padilla Aye. Perata.  
4 CHAIRMAN PERATA: Aye.  
5 SECRETARY WEBB: Perata Aye. Four to Zero.  
6 CHAIRMAN PERATA: It's unanimous to confirm.  
7 Congratulations.

8 MS. STILL: Thank you very much.

9 [Thereupon this portion of the  
10 Senate Rules Committee hearing  
11 was terminated at approximately  
12 3:00 P.M.]

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## APPENDIX



## **SENATE OFFICE OF RESEARCH**

*Analysis for Senate Rules Committee*

*Confirmation Hearing*



### **APPOINTEE**

**RUBEN D. GRIJALVA**

DIRECTOR, FORESTRY AND FIRE PROTECTION

### **BACKGROUND**

Appointed by Governor Schwarzenegger, effective April 21, 2006

State Fire Marshal, Forestry and Fire Protection 2004—2006

Fire Chief, Palo Alto Fire Department 1994—2004

Assistant Fire Chief, Palo Alto Fire Department 1990—1994

Sunnyvale Department of Public Safety

Fire Marshal 1985—1990

Public Safety Lieutenant/Fire 1983—1985

Public Safety Officer/Fire 1979—1983

Public Safety Officer/Police 1976—1979

Associate of Arts, General Education, San Jose City College

### ***DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS***

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### **POSITION DESCRIPTION**

The California Department of Forestry and Fire Protection (CDF) is charged with protecting the people of California from fires and responding to emergencies as part of the California Emergency Plan. In protecting the lives, property, and natural resources of the people of California, CDF works to protect the health and safety of its workforce, especially firefighting crews, and contain costs and losses due to wildfire through improved prevention of damaging fires and the optimization of initial fire suppression attacks.

The department provides fire protection services for some local governments on a cost reimbursement basis. It also provides emergency response services for floods, earthquakes, hazardous material spills, and other non-fire events, as well as fire prevention engineering, enforcement, and education.

### **FIRE PROTECTION – STATE RESPONSIBILITY AREAS**

CDF is responsible for fire protection in more than 31 million acres of state responsibility area (SRA), including wildlands, forests, rangelands, and developing rural areas. The state removes from SRA any land that is larger than 250 acres and contains three or more houses per acre. It also removes land that has been annexed or incorporated. Some local jurisdictions have been approving development with densities just under the SRA limit of three houses per acre. This means that local governments approve the development of scattered-site housing and ranchettes, but the state provides for their fire protection services.

Fire suppression is the single largest Resources Agency General Fund expenditure, with over \$851 million proposed in the governor's 2007-08 budget. To help cover these fire suppression costs, the 2004-05 budget had a proposed SRA fee which was to be levied on private landowners. This fee was intended to partially offset the state's cost of fire protection services benefiting landowners in SRA-designated areas. This fee was negotiated out of the final budget.

Currently the department is developing the California All-Incident Reporting System which will provide better data on the department's activities.

**Fire Protection – State Responsibility Areas**

1. CDF enters into agreements with local agencies to determine if and when the department will reimburse local agencies for their assistance on state responsibility fires. These agreements are typically negotiated at the unit level and vary widely in their terms and conditions. Does the department have any plans to adopt a uniform local agreement to standardize the reimbursement process?
2. Please explain the challenges faced by the department in fighting fires in SRA given the population increase. How do you think this has changed the mission of the department?
3. One of the criteria for removing lands from SRA is when development exceeds three units per acre. Given the significant development of housing in SRA, do you believe this standard is appropriate? Would you recommend the Board of Forestry change its SRA designation rules to shift more new development to local responsibility areas?
4. The department is developing the California All-Incident Reporting System which will provide better data on its activities. What is the status of this system? When will data be available to the public and the Legislature?

\* \* \* \* \*

**SALMON PROTECTION AND TIMBER HARVESTING**

The department regulates timber harvesting in private and state-owned forests, and provides a variety of resource management services for owners of timberlands, rangelands, and brushlands.



The coho salmon population from San Francisco to the Oregon border has experienced a significant decline in the past 40 to 50 years. Hatchery stocks are currently 6 to 15 percent of their 1940 population. Much of the decline has been caused by sedimentation in North Coast rivers and streams, often a result of timber operations.

Departmental staff has drafted several rule packages for the Board of Forestry to consider over the last year. The environmental and fishing communities assert that each salmon protection rule package drafted by the department has been weaker than its predecessor.

### **Salmon Protection and Timber Harvesting**

- 1. How is the department working with the Department of Fish and Game on the timber harvest rule package to protect coho salmon?**
- 2. What do you see as the public trust responsibilities of your department in regard to listed salmon populations? Should the forest practice rules be changed to protect this resource?**
- 3. In the past, proposals have been made to streamline the timber harvest plan process for projects that would meet certain criteria. Do you believe the timber harvest plan process needs to be streamlined? If so, what are the problems with the existing process?**
- 4. When reviewing timber harvest plans, the department consults with the Department of Fish and Game and the Regional Water Quality Control Boards. Do you believe that these other state entities are fulfilling their responsibilities to adequately review timber harvest plans? Are there steps the department or Legislature should take to improve this review process?**

\* \* \* \* \*



**RESOURCE MANAGEMENT**

While the department is charged with both fire protection and resource management, the department's budget is heavily weighted toward fire protection. In fact, only 5 percent of the department's budget is dedicated toward resource management activities.

**Resource Management**

1. **Given that the vast majority of the budget and personnel in the department focus on fire protection, is it possible for upper management to give close attention to resource management issues?**
2. **In the past, some have suggested that the department be split up, dividing the fire protection mission and the resource management mission. Would you favor such a change in the department's structure? Are there options other than financial resources that could improve the resource management activities within the department?**

\* \* \* \* \*

**PERSONNEL ISSUES**

During the confirmation of the previous director of the department, it was estimated that 50 percent of top management and 96 percent of all managers would be eligible to retire within the next few years.

There is also concern that there has been salary level compaction at the manager level, in part because nonmanagement staff can accumulate overtime and are reluctant to give it up by moving to management positions. The administration and Legislature partially addressed this issue in the most recent budget and collective bargaining agreements.

**Personnel Issues**

- 1. How is the department addressing the potential significant loss of managers within the department?**
- 2. How is the department addressing the issue of staff not wanting to promote into management jobs? What can the Legislature do to assist with this problem?**
- 3. Do local firefighting agencies face a significant loss of managers? Is there some way that the state and locals could join together in a recruitment and training program to attract new people to the field?**

\* \* \* \* \*

**PACIFIC LUMBER**

The Pacific Lumber Company recently filed for bankruptcy in Texas. This action may have implications for Pacific Lumber lands that were required as a condition of payment for California's share of the \$480 million, paid in 1999 by the state and federal government, to acquire the 7,500 acre Headwaters Forest.

In 1998 the Legislature enacted AB 1986 (Migden, Chapter 615, Statutes of 1998), which was signed into law by then-Governor Wilson. The law made the state's \$230 million contribution toward the purchase contingent on specified logging restrictions being incorporated into the Habitat Conservation Plan and the federal permit to incidentally kill salmon issued to Pacific Lumber. They were subsequently incorporated into a 1999 state contract for enforcement of AB 1986 that the Wildlife Conservation Board required Maxxam Corporation and Charles Hurwitz to agree to before payment of the \$230 million could proceed.

The contract for enforcement of AB 1986 requires that Maxxam record deed restrictions on Pacific Lumber land that secure a 50-year prohibition on any

logging within 12 residual groves of old-growth redwood forest. The restrictions on timber harvesting in the 6,700 acres required 100-foot wide "buffers" on each side of all fish-bearing streams where logging would be prohibited to protect habitat for the coho salmon.

**Pacific Lumber**

- 1. Have you evaluated the potential implications of this bankruptcy filing on the habitat protections imposed under the 1999 law and agreement? Is the department or its counsel at the Department of Justice monitoring these bankruptcy proceedings to protect the state's interests?**
- 2. What actions can be taken to ensure Pacific Lumber and its creditors do not, as part of the bankruptcy proceedings, alter the logging restrictions on its forestland required by AB 1986 and state contract?**

\* \* \* \* \*

*Prepared by Kip Wiley*



Figure 1 shows the percentage of students who completed the course on time (Y-axis) versus the number of students who completed the course on time (X-axis). The graph shows a positive correlation, with the percentage of students completing the course on time increasing as the number of students who completed the course on time increases. The data points are connected by a line, showing a steady upward trend.

The graph shows that as the number of students who completed the course on time increases, the percentage of students who completed the course on time also increases. This suggests that the more students who complete the course on time, the higher the overall percentage of students who complete the course on time.

The graph also shows that the percentage of students who completed the course on time is always greater than or equal to the number of students who completed the course on time. This is because the percentage of students who completed the course on time is calculated as the number of students who completed the course on time divided by the total number of students, multiplied by 100.

For example, if 50 students completed the course on time, the percentage of students who completed the course on time would be 50%. If 100 students completed the course on time, the percentage of students who completed the course on time would be 100%.

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**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

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February 13, 2007

The Honorable Don Perata  
c/o Nettie Sabelhaus  
Senate Rules Committee Appointments Director  
State Capitol, Room 240  
Sacramento, California 95814

Dear Senator Perata:

In response to your letter of January 26, 2007, regarding my confirmation hearing before the Senate Rules Committee, I am pleased to submit the following responses to your questions.

**Goals****1. What do you hope to accomplish as director of the department?**

The following are some of the goals that I hope to accomplish as Director of the California Department of Forestry and Fire Protection (CAL FIRE):

1. Provide leadership within California on matters relating to resource management, fire protection, and fire and life safety.
2. Improve communications with stakeholders who are affected by the decisions and actions of CAL FIRE. To develop processes designed at building consensus.
3. Coordinate activities with other state agencies, local government, private industry, and the public to assure the effectiveness and efficiency of the CAL FIRE.
4. Provide a high level of customer satisfaction in carrying out the legislative mandates of the CAL FIRE.
5. Operate in a manner that maintains the high level of professionalism and integrity of the CAL FIRE.

The following are a few of the specific objectives that I hope to accomplish:

1. Implement the CAL FIRE two-year work plan.
2. Complete the CAL FIRE re-organization plan.
3. Implement the CAL FIRE succession plan.

Senate Rules Committee

FEB 13 2007

Appointments

CONSERVATION IS WISE-KEEP CALIFORNIA GREEN AND GOLDEN

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4. Update fire hazard severity zone maps and rollout to local government.
5. Improve fire prevention capabilities, defensible space inspections and compliance in the wildland urban interface.
6. Contribute to Governor's goals for reduction of greenhouse gases through forest management and practices (AB32).
7. Improve management/labor relations within the CAL FIRE and within the California Fire Service.
8. Manage Demonstration State Forests as active and valuable "World Class Demonstration Forests" in accordance with Board of Forestry Policy and with stakeholder support.
9. Develop a 5-year strategic plan for the CAL FIRE.
10. Raise the bar on employee performance by increasing training standards, valuing diversity, and selection of experienced personnel.

### ***Fire Protection***

2. **What percentage of land in California is considered State Responsibility Area (SRA)? What percentage of California's population lives in these areas? Are most of the homes in SRA also protected by a local fire department?**

Approximately 31 million acres -- or 33 percent of the land in California -- is considered SRA, in which approximately 5 percent of California's population resides. Most of the homes in the SRA lands also are protected by a local fire department; however, in a few very rural areas the improvements/homes within the SRA do not have any local agency protection.

3. **The department enters into agreements with local agencies to determine if and when the department will reimburse local agencies for their assistance on SRA fires. These agreements are typically negotiated at the unit level and vary widely in their terms and conditions. Does the department have any plans to adopt a uniform local agreement to standardize the reimbursement process?**

CAL FIRE enters into agreements with local fire agencies to obtain assistance on SRA fires. Access to local resources is critical to meeting the State Board of Forestry and Fire Protection's goal for CAL FIRE to suppress 95 percent of all fires at 10 acres or less. CAL FIRE can not meet this goal during critical fire activity periods when multiple fires are burning and CAL FIRE resources are stretched very thin. The Department depends upon local government resources to fill in behind the state resources and continue the aggressive initial attack necessary to meet this goal. CAL FIRE is working with our federal and local government partners to streamline and standardize agreements wherever possible. Flexibility is needed at the Unit level to negotiate agreements.

4. **Please explain the challenges faced by the department in fighting fires in SRA given the population increase. How do you think this has changed the mission of the department?**

Fighting fire in the SRA in California has always been challenging due to the State's varied climate, large open expanses of land, and steep topography, all which aid in the spread of



fire. In years past the situation would allow for sequential use of the resources, first to control the perimeter, and then the same resources would work towards the interior of the fire until the fire was completely extinguished. The current scenario requires concurrent use of resources. While the perimeter control is being performed, often there are homes or other improvements in the interior which require resource commitments to protect private property.

While the State's population has indeed increased, placing pressures in SRA. Nonetheless our mission to "protect the people of California from fires, respond to emergencies, and protect and enhance forest, range, and watershed values provide social, economic, and environmental benefits to rural and urban citizens" has not changed.

- 5. One of the criteria for removing lands from SRA is when development exceeds three units per acre. Given the significant development of housing in SRA, do you believe this standard is appropriate? Would you recommend to the Board of Forestry a change in its SRA designation rules to shift more new development to local responsibility areas?**

The three units per acre rule is only one of several criteria that are used to identify areas for possible change in classification. Other considerations include: definable boundaries; whether the area creates or is part of an island; annexation into a city; transfer of ownership to the federal government; or if it no longer meets the classification definitions found in PRC §4126. The standard is appropriate when utilized with the other criteria in assessing the conversion from SRA. However as conditions change, I do support working with the Board of Forestry and local government to assure appropriate responsibility to ensure public safety.

- 6. The department is developing the California All-Incident Reporting System which will provide better data on the department's activities. What is the status of this system? When will data be available to the public and the Legislature?**

The California All-Incident Reporting System (CAIRS) was implemented statewide on November 1, 2006, and is fully operational. The data is currently available. It is being sent to the State Fire Marshal's (SFM) office on a weekly basis and will be published in the annual CAL FIRE Redbook. Data via special requests are handled by CAL FIRE Fire Protection Program.

### ***Salmon Protection***

Coho salmon from San Francisco to the Oregon border have experienced a significant decline in the past 40 to 50 years. Hatchery stocks are currently 6 to 15 percent of their 1940 population. Much of the decline of Coho salmon has been caused by sedimentation in North Coast rivers and streams, often a result of timber operations.

Departmental staff has drafted several rule packages for the Board of Forestry to consider over the last year. The environmental and fishing communities assert that each salmon protection rule package drafted by the department has been weaker than its predecessor.

- 7. How is the department working with the Department of Fish and Game on this issue?**

The working relationship between CAL FIRE and the Department of Fish and Game (DFG) is stronger than ever. I firmly believe that our primary mission is to serve the needs of the

public, stakeholders, and other agencies. During my first 100 days as acting Director of the Department, I personally contacted and met with scores of committees, agencies and stakeholders whom I consider to be our customers. The objective of these meetings was to determine the existing quality of our service, build better relationships and improve communication to create an improved level of service. The foundation of our working relationship with DFG and other agencies that have oversight of timber harvest operations is based upon my commitment to better communication, understanding the key objectives and needs of other agencies to better serve the public. My staff meets regularly with DFG on issues of common interest. Development and incorporation of proposed regulations that would allow for the incidental take of Coho salmon (Section 2112 of the Fish and Game Code) into the Forest Practice Rules is a good example of an improving working relationship and shows how we are serving the DFG mission to protect existing populations of Coho salmon. The protective standard to be met by these draft regulations has been established by DFG and we have publicly stood shoulder-to-shoulder with DFG in supporting these objectives. During this period of time the Board of Forestry requested alternatives that change the scope of application of the proposed 2112 regulations. However, we have maintained the quality of the prescriptions in the proposed regulations which resulted from our collaboration with DFG and the California Geological Survey.

**8. What do you see as the Public Trust responsibilities of your department in regard to listed salmon populations? Do you believe forest practice rules could be changed to protect this resource?**

The Public Resources Code codifies CAL FIRE's public trust responsibilities in PRC §4512. It states, "The Legislature declares that it is the policy of the state to encourage prudent and responsible forest resource management calculated to serve the public's need for timber and other forest products while giving consideration to the public's need for watershed protection, fisheries and wildlife, and recreational opportunities alike in this and future generations." This language clearly identifies CAL FIRE's duty to protect fishery resources while providing for timber and forest products.

As Director, I strongly support sound, science-based adaptive management that reflects this public trust responsibility. Rule changes based upon empirical data and peer reviewed scientific conclusions which allow adaptation to address data and scientific conclusions promote protection for all natural resources. In addition to the Forest Practice Rules, a number of other avenues exist to provide protection to fisheries. A number of voluntary landscape and ownership partnerships between a landowner and state departments work successfully to focus on species and habitat protection. As Director I have, and will continue to support, a close working relationship between CAL FIRE and the DFG to provide protection to salmonid populations.

***Timber Harvesting***

**9. In the past, proposals have been made to streamline the Timber Harvest Plan (THP) process for projects that would meet certain criteria. Do you believe the THP process needs to be streamlined? If so, what are the problems with the existing process?**

As Director I have listened carefully to concerns expressed by a wide range of stakeholders concerning the complexity and costs associated with the THP process. One of the solutions proposed to address this issue targets the concept of streamlining the regulatory process. While I understand the concerns about THPs and I am supportive of taking whatever steps



are available to CAL FIRE to improve the process, I also recognize that solutions need to be made that will fulfill the Department's mission to protect public trust resources.

CAL FIRE has initiated a number of administrative approaches to harmonizing the THP process to facilitate public access and issuance of permits by other agencies. To facilitate public access, we have successfully initiated a pilot project in our Santa Rosa review office to post THP documents on a publicly accessible website. To facilitate issuance of permits by DFG and Water Boards, we have encouraged plan submitters to include all information necessary to support concurrent review and issuance of those agencies permits as part of the THP review process. This facilitates concurrent review in conformance with the widest range of statutory and regulatory permitting requirements. This approach has expedited the permit issuance process by other agencies and provided a more integrated approach to meeting the requirements of the California Environmental Quality Act.

More can be done. I continue to work with stakeholders to look for ways to improve the process while protecting the environment and public trust resources.

- 10. When reviewing THPs, the department relies on consultation with the Department of Fish and Game and the Regional Water Quality Control Boards. Do you believe that these other state entities are fulfilling their responsibilities to adequately review THPs? Are there steps the department or Legislature should take to improve this review process?**

As Director, I encourage and expect agency participation in the THP review process. Both the Regional Water Quality Control Boards and DFG have redirected staff or received additional staff for THP review in the Sierra Nevada and interior Northern California. These efforts have clearly improved the level of participation in these key areas of the state.

CAL FIRE continues to work cooperatively with the other review team agencies to improve the review process. Current efforts include joint efforts centered on training and monitoring. I expect that these efforts will improve continuity of THP review, promote understanding of Public Trust responsibilities of the review team agencies and provide feedback through monitoring. This will demonstrate just how well the Forest Practice Rules and mitigations included in THPs are working to protect the Public Trust Resources.

In addition to the training and monitoring effort, senior staff and program managers from all reviewing agencies meet regularly to discuss THP review related issues.

### ***Resource Management***

- 11. Given that the vast majority of the budget and personnel in the department focus on fire protection, is it possible for upper management to give close attention to resource management issues?**

I believe that having upper management closely engaged with resource management issues is crucial to fulfilling CAL FIRE's mission. For example, CAL FIRE plays an active role on the Climate Action Team because changes in California's climate impact the Department's fire and resource management mission. Organizationally I have revised the structure within the executive office and have assigned primary responsibility for oversight of the resource management programs to the Chief Deputy Director. This reorganization was designed specifically to give the Chief Deputy Director more time to focus on resource management issues, not fire protection.

**12. In the past, some have suggested that the department be split up, dividing the fire protection mission and the resource management mission. Would you favor such a change in the department's structure? Are there options other than financial resources that could improve the resource management activities within the department?**

I do not support a change in CAL FIRE's structure that would split the fire protection and resource management missions. CAL FIRE will continue to recognize that an integrated approach is necessary to provide for resource protection, fire suppression, pre-fire fuel treatments, forest health and community safety.

The challenges associated with maintaining an integrated workforce are many and I recognize the need to take proactive steps to insure that this occurs. Clearly there are a number of options for maintaining an integrated workforce that fulfills the "Total Force" approach to using our resources. CAL FIRE has and will continue to emphasize training for all employees that appropriately recognizes resource management responsibilities. Resource Management staff will continue to support Unit activities and be supported at the Unit level. Also, as has been the case in the past, appropriate Resource Management staff efforts can be redirected either short term or permanently to better serve the public. Resource Management staff will continue to be part of the key Departmental staffing resources on fires and will be expected to support the fire protection function of CAL FIRE through maintaining appropriate ICS qualifications.

***Personnel Issues***

During the confirmation of the previous director of the department, it was estimated that 50 percent of the top management and 96 percent of all managers would be eligible to retire within the next few years.

There is also concern that there has been salary level compaction at the manager level, and few staff want to give up the ability to receive overtime and move up to management where overtime is not allowed under federal rules. The Administration and Legislature addressed this issue to a certain extent within the most recent budget and collective bargaining agreements.

**13. How is the department addressing the potential significant loss of managers within the department?**

Unfortunately, CAL FIRE has already experienced a significant loss of managers within the Department. Since July 2005, 38 of CAL FIRE's 149 Assistant Chiefs have retired, as have 10 of the department's 21 Unit Chiefs. Currently, 40 Assistant Chief positions and two Unit Chief positions are vacant.

The Assistant Chief classification is the first supervisory level within the Chief Officer Series, and Unit Chief is typically the first managerial level. CAL FIRE relies heavily on positions in both of these classifications to serve as the command officers and technical experts. They provide critical tactical and strategic leadership for the deployment of personnel and resources during statewide and local emergencies.

However, as important as these command positions are, CAL FIRE has experienced difficulty in filling vacancies due to the inversion of Assistant Chief salaries as compared to rank and file Firefighter classifications. CAL FIRE has worked successfully with the Department of



Personnel Administration (DPA) and the Department of Finance (DOF) to develop and implement a plan for resolving this problem. The cumulative increase in compensation for Assistant Chiefs and Unit Chiefs helped to correct the inverted salary structure and to make these higher level positions more attractive to promotional candidates. Consequently, whereas there were only three permanent Assistant Chief appointments between July 2005 and September 2006 (the date that agreement was reached on a solution), there have been five such appointments and thirteen reinstatements since September 2006.

Nonetheless, CAL FIRE's ability to train and retain qualified Chief Officers will remain an issue over the next few years. As the baby boom retirement wave moves through the ranks, CAL FIRE is also experiencing a loss of experienced employees from its Fire Captain and Battalion Chief ranks. Since July 2005, 141 of the 1,412 Fire Captains and 75 of the 274 Battalion Chiefs have retired. These two classifications provide the primary candidate pool for Assistant Chiefs, and the loss of employees from these classifications will continue to strain CAL FIRE's ability to maintain a viable candidate pool to draw from while filling critical Chief Officer positions.

Recognizing this significant loss of experience, CAL FIRE has initiated a succession planning process and developed strategies to maintain its public safety workforce. The Department has provided accelerated entry level training and has explored alternatives to take advantage of the existing experience and education of entry level employees.

CAL FIRE has also increased its capability to provide continuing education and training to prepare incumbent employees for increased responsibility and advancement in the Department. We are prepared for increasing workload and fiscal pressures in the Human Resources section to meet the need for accelerated testing and personnel transactions.

In FY 2005/06 CAL FIRE received approval for a Succession Planning BCP, and beginning with the 2006/07 fiscal year, the department has funding for three years to address some of these issues. As part of the succession planning process CAL FIRE has and continues to evaluate organizational structure and efficiencies, classification structure, and recruitment and retention opportunities (both short and long term).

CAL FIRE has also added an advanced leadership course (Supervision 5) to its employee development training curricula. This course is being taught for the second time this March and is designed to prepare employees to become the new managers and leaders of CAL FIRE.

**14. Do local fire fighting agencies face a similar problem? Is there some way that the state and locals could join together in a recruitment and training program to attract new people to the field?**

CAL FIRE already works quite extensively with federal, state and local government agencies to cooperatively train fire fighter candidates. In addition to classes hosted by the department's Regional Training centers or local Units, course delivery is often hosted by community colleges, County Training Officer Associations, and local districts. For example, CAL FIRE has agreements in place with many community colleges statewide (including American River College in Sacramento, Columbia College in Sonoma, and Butte College in Oroville), and the department has an interagency agreement with the U.S. Forest Service (USFS) Region 5 for delivery of Incident Command System courses as well as combined tactical training of personnel involved in aerial firefighting operations. These courses are staffed with both CAL FIRE and USFS personnel, and local government participation in these cadres has been increasing over the years.

It is not uncommon for CAL FIRE classes to consist of a wide diversity of students, hailing from different states, departments, or agencies. Unit training schedules are generally published, and training is available to all agencies to help meet the needs of local agencies for the California Incident Command Certification System (CICCS). In addition, CAL FIRE regularly assists in training for volunteer fire departments through our Schedule A agreements.

The CAL FIRE Academy trains students from state and local entities (including DFG, the Jackson Police Department, and the Lone Police Department) in its Peace Officer Standards Training classes, while many Heavy Fire Equipment Operator and ICS Series 400 classes at the Academy have enrollees from federal and local entities (such as the USFS, Ventura County, and Los Angeles County).

As much training as CAL FIRE does with local, state, and federal agencies, there is a desire to do more. Firefighters need an extensive amount of training to be effective, and CAL FIRE has and will continue to do all that it can to ensure that its employees and those of its partnering agencies are well trained to perform their fire suppression and emergency response mission.

Retention of those employees who are already hired and trained to perform in critical roles is a bigger problem than recruiting new entry level fire fighters. Long term, CAL FIRE needs to become and remain competitive with local government fire service agencies from a compensation standpoint in order to retain the employees in which it has already invested so much time and training.

**15. How is the department addressing the issue of staff not wanting to promote into management jobs? What can the Legislature do to assist with this problem?**

Over the past two years, CAL FIRE has taken a number of steps to encourage Battalion Chiefs to promote into critical supervisory positions. We continue to refine our succession plan and explore new ways to prepare our employees to take on increased responsibility and to advance and promote within the department.

CAL FIRE has negotiated a solution to its salary inversion problem that has resulted in a more balanced pay structure and helped to fill some of its many Assistant Chief vacancies. In addition, the Department is exploring the possibility of open exams at the Chief Officer level to attract more outside candidates.

***Pacific Lumber***

The Pacific Lumber Company (PL) recently filed for bankruptcy in Texas. This action may have implications for the PL lands that were required as a condition of payment for California's share of the \$480 million paid in 1999 by the state and federal government to acquire the 7,500 acre Headwaters Forest.

In 1998, the Legislature enacted AB 1986 (Migden) which was signed into law by Governor Wilson. The law made the state's \$230 million contribution toward the purchase contingent on specified logging restrictions being incorporated into the Habitat Conservation Plan (HCP) and federal incidental take permit issued to PL. They were subsequently incorporated into a 1999 state contract for enforcement of AB 1986 that the Wildlife Conservation Board (WCB) required



Maxxam Corporation and Charles Hurwitz to agree to before payment of the \$230 million could proceed.

The contract for enforcement of AB 1986 required that Maxxam record deed restrictions on PL land that secure a 50-year prohibition on any logging within 12 residual groves of old-growth redwood forest entailing 6,700 acres and secure 100-foot wide "buffers" on each side of all fish-bearing streams where logging would be prohibited to protect habitat for the Coho salmon, a federally-listed species.

**16. Have you evaluated the potential implications of this bankruptcy filing on the habitat protections imposed under the 1999 law and agreement? Is the department or its counsel at the Department of Justice monitoring these bankruptcy proceedings to protect the state's interests?**

CAL FIRE's legal staff is in close contact with bankruptcy counsel from the Attorney General's Office as well as outside bankruptcy counsel. I fully support the letter sent by Secretary Chrisman to the Chairman of this Committee regarding the protections of the 1999 law and implementing agreement.

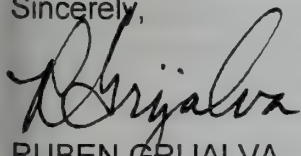
**17. What actions can be taken to ensure PL and its creditors do not, as part of the bankruptcy proceedings, alter the logging restrictions on its forestland required by AB 1986 and state contract?**

Through bankruptcy counsel, the State has secured language in the orders issued by the Bankruptcy Court recognizing and requiring PL and its subsidiaries to comply with all regulatory obligations. The attached letter reflects PL's assurances to the state that it intends to meet its regulatory obligations. Department counsel, as well as other state department counsel and the Attorney General's Office will continue to participate in bankruptcy proceedings to ensure these protections remain in full force and effect. The Office of the Attorney General has filed a motion to change venue from Corpus Christi, Texas to Northern California to further the State's ability to participate fully in the bankruptcy proceedings.

I hope you find this information useful and responsive to the Committee's inquiry. Please feel free to contact me at (916) 653-7772 if you have any questions or would like additional information.

Thank you for your time and consideration.

Sincerely,

  
RUBEN GRIJALVA  
Director



January 26, 2007

The Honorable Don Perata  
California Senate pro Tempore  
State Capitol, Room 205  
Sacramento, California 95814

Dear Senator Perata,

I am writing in answer to your letter of January 22, 2007. Let me assure you that the Schwarzenegger Administration and the Resources Agency share your concerns with respect to the Pacific Lumber Company bankruptcy filing. We intend to be dogged and unyielding in our efforts to protect California's interests and hold Palco to all of its obligations, including those under AB 1986 and the Headwaters Agreement.

There are legal teams from the Resources Agency, Department of Forestry and Fire Protection (CDF), Department of Fish and Game (DFG), State and Regional Water Quality Control Boards, and the Attorney General's Office engaged and working on a coordinated legal strategy to protect all of California's interests and rights. The Agreement Relating to Enforcement of AB 1986 required that the company record covenants on the land. The covenants were recorded over the land in 1999. They remain in place for 50 years from that date. They were required in large part to ensure protection in the event of bankruptcy or change of ownership. The Habitat Conservation Plan (HCP) is still in effect even though the company has filed for bankruptcy.

The HCP is a part of permits issued by the state and the federal governments under their respective Endangered Species Acts. Although the state permit is stayed pending review by the California Supreme Court, determinations made by DFG pursuant to the state Endangered Species Act, (that the federal permits are consistent with the state law), are based upon compliance with the HCP. This and other obligations to comply with state and federal law remain, notwithstanding the bankruptcy filing. The state and federal governments are still able to enforce their laws through their respective regulatory powers, that include, but are not limited to, the state and federal Endangered Species Acts.

Although this bankruptcy is in its early stages, we are proceeding forward with filings to protect California's interests. In order to protect the HCP and other interests, we have just this week ensured that the following provision: "ORDERED that nothing in this Order shall relieve the Debtor of any obligations under federal state or local police or regulatory laws or under 28 U.S.C. section 959(b), nor authorize expenditures beyond the amounts allowed herein" is contained in the applicable interim bankruptcy orders. In addition, we have advised the court that we will be filing a motion to change the venue from the Southern District of Texas to California. We expect, and will make every effort to ensure, that all obligations to California will be honored and remain in effect through this proceeding.

1416 Ninth Street, Suite 1311, Sacramento, CA 95814 Ph. 916.653.5656 Fax 916.653.8102 <http://resources.ca.gov>





Senator Perata  
January 26, 2007  
Page 2

In December, Palco made a variety of requests to CDF, DFG, and the federal wildlife agencies relating to the HCP. Consideration of these requests is currently on hold as a result of the bankruptcy, and CDF and DFG have had no further contact with the company on these requests since the filing. I also understand that in light of the bankruptcy, the state and regional water boards are assessing the status of Palco's obligations under the Porter-Cologne Water Quality Control Act and regulatory orders the water boards have issued pursuant to that act.

The Attorney General's office is serving as lead counsel in what we believe will be a complicated case. Any more specific legal questions you have should be directed there, but I and the resources of this agency are always available to you.

We stand together, Senator, committed to ensuring that all provisions of the Headwaters Agreement remain in effect to protect California interests, now and through the 50 year requirements of the deal, regardless of the outcome of the Palco bankruptcy filing. Please do not hesitate to call me if you would like to discuss this matter further.

Sincerely,

A handwritten signature in cursive script that reads "Mike Chrisman". The signature is written in dark ink and is positioned to the left of the typed name.

Mike Chrisman  
Secretary for Resources

THE PACIFIC LUMBER COMPANY  
P.O. Box 37 Scotia, CA 95565  
T: (707) 764-2222 www.palco.com

February 2, 2007

Mr. Crawford Tuttle  
Chief Deputy Director  
California Department of Forestry  
and Fire Protection  
P.O. Box 944246  
Sacramento, CA 94244-2460

**RECEIVED**

**FEB 07 2007**

**DEPT. OF FORESTRY  
FIRE PROTECTION  
LEGAL OFFICE**

RE: Extension of Director's Decision Date

Dear Mr. Tuttle:

I am in receipt of your letter dated 26 January 2007 requesting an extension of time, pursuant to Forest Practice Rule 1037.4, for two THPs: 1-05-006 HUM, and 1-06-144 HUM. We understand and appreciate the Department's desire to have "additional time to make findings about whether these plans avoid significant adverse impacts to the environment." We regularly work with your staff to extend plans in order to accommodate the Department's needs, and we are willing to do so here.

As I believe you are aware, our General Counsel, Frank Bacik, and I have had discussions with various CDF personnel including your Chief Counsel, Giny Chandler, and your Deputy Director of Resource Management, William Snyder. These have been very productive discussions which have helped the Company to better understand the Department's concerns and your needs going forward.

In particular, I understand from these discussions that the Department would like to be able to assure the public that the environmental mitigations and requirements of these THPs will be satisfied by the Company despite our recent filing under Chapter 11 of the U.S. Bankruptcy Code. Toward that end, we have conferred both with our Senior Management Team and with our Bankruptcy Counsel and concluded that it is feasible for us to identify funding for HCP and THP compliance as line items in future budgets that we submit for approval to the Bankruptcy Court. These funds would have been expended in any case. PALCO is in full compliance with its HCP and THPs, and intends to continue being so in the future. However, the assurance that these designated line items provide to the Department and the public should, in turn, give you additional basis for understanding the appropriate mitigations will be implemented as planned. By agreement with Ms. Chandler and Mr. Snyder, we will be providing copies of the budgets containing these specific line items to the Department as they are developed and submitted to the Bankruptcy Court. They are a matter of public record.

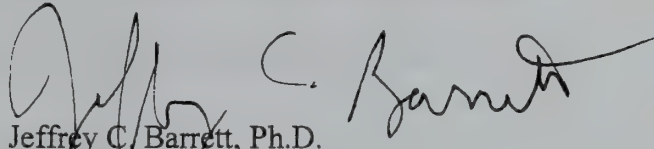


Mr. Crawford Tuttle  
Extension of Director's Decision Date  
February 2, 2007  
Page 2

We anticipate submitting a new budget to the Court within the next calendar week. Accordingly, I am approving an extension of the Director's decision date for THPs 1-05-006 HUM, and 1-06-144 HUM until Friday, February 16, 2007. I believe this will give the Department more than adequate time to make a final decision on these plans.

Thank you again for your letter and for the diligent efforts by your staff to help the Company to understand and resolve this issue. As always, we look forward to working with you and with the Department in the future.

Sincerely,  
THE PACIFIC LUMBER COMPANY



Jeffrey C. Barrett, Ph.D.  
Vice President of SCOPAC

cc: Frank Bacik, Vice President and General Counsel, The Pacific Lumber Company  
Giny Chandler, Chief Counsel, CDF  
Michael Chrisman, Secretary of Resources Agency  
Leslie Markham, Deputy Chief, Forest Practice  
George O'Brien, President and CEO, The Pacific Lumber Company  
Ron Pape, Forester, Department of Forestry and Fire Protection  
Duane Shintaku, Assistant Deputy Director, Forest Practice  
William Snyder, Deputy Director, Resource Management





**APPOINTEE**

**WENDY STILL**

ASSOCIATE DIRECTOR, FEMALE/CIVIL ADDICT INSTITUTIONS  
 DEPARTMENT OF CORRECTIONS AND REHABILITATION, ADULT INSTITUTIONS

**APPOINTEE BACKGROUND**

Appointed by Governor Schwarzenegger, effective April 6, 2006

Department of Corrections

Associate Director, Reception Centers and Southern Regional Administrator	2004—2005
Deputy Director/Chief Financial Officer, Financial Services Division	1999—2004
Special Assistant to Chief Deputy Director	1998—1999
Correctional Administrator	1994—1995 and 1996—1998
Acting Chief Deputy Warden, Solano	1995—1996
Business Manager II, Folsom	1993—1994
Correctional Administrator	1992—1993
Business Manager II, Wasco	1990—1992
Business Services Officer, Central Office Business Services	1985—1990
Agriculture Labor Relations Board, Business Services Officer	1980—1985
Department of General Services, Office Assistant	1978—1980
Department of Education, Office Assistant	1977—1978
Bachelor of Science, Organizational Behavior, University of San Francisco	

***DISCUSSION OF ISSUES AND POTENTIAL QUESTIONS***

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**POSITION DESCRIPTION**

On July 1, 2005, the California Department of Corrections became the Department of Corrections and Rehabilitation. The change was the result of a governmental reorganization and a renewed emphasis on providing treatment and education for willing inmates. The agency is home to 66,000 employees and 174,000 inmates. Of those prisoners, about 7 percent or 11,700 are women who are incarcerated at four institutions as well as a private community correctional facility, two programs for inmates and their children, and several fire and conservation camps. The largest concentration of female inmates is at two neighboring prisons in Chowchilla: Valley State Prison for Women and the Central California Women's Facility.

As part of the departmental reorganization, five associate director positions were created under the Division of Adult Operations. These associate directors each have responsibility for a specific mission-based operation inside the department. The five separate associate director positions are (1) high security institutions, (2) prisons for more serious offenders, (3) reception centers where inmates are first sent, (4) facilities for less serious offenders, and (5) female offenders.

Last year, Wendy Still was named associate director, female offender institutions, camps, and community correctional facilities. The largest segment of her time—40 percent—is supposed to be devoted to visiting prisons, according to the department's official duty statement. As sketched out in the duty statement, on those visits she is to discuss, among other topics, security issues, including use of force and labor relations, and meet with supervisory staff. The remainder of the job is divided along the following lines: 20 percent to manage and supervise staff assigned to the associate director's office, 15 percent to maintain communications with other associate directors, 10 percent to conduct immediate reviews of major emergency incidents, 10 percent for periodic wardens' meetings, and 5 percent for committees.

A fact sheet on female institutions and the women incarcerated in them is attached to this document.



**Duties**

1. Does the duty statement blueprint accurately reflect the way your time is spent? If not, how is it different?
2. When you visit prisons, how much time do you spend talking to officers and inmates?

\* \* \* \* \*

**POPULATION AND OVERCROWDING**

From June 30, 2004, to June 30, 2006, the female inmate population grew almost 12 percent, mirroring the rise in the overall prison population. Female institutions, like the entire system, face serious overcrowding.

**Population and Overcrowding**

1. What are the unique challenges that overcrowding presents in female institutions?
2. Female institutions have a 12 percent staff vacancy rate. How are you addressing the need to recruit staff? What obstacles do you face in your efforts?
3. Some male inmates have been transferred out of state to relieve overcrowding. What is the department doing about overcrowding in female institutions? Is the department considering sending women to other states?
4. The warden of the California Institution for Women has indicated that the department's hiring freeze on officer transfers is affecting the prison's ability to provide security for programs and, therefore, its ability to conduct classes and other programs. What are you doing to ensure adequate staff at the California Institution for Women and preserve its programs?

\* \* \* \* \*

**COMMUNITY PLACEMENT**

Governor Schwarzenegger has proposed moving as many as 4,500 nonviolent and nonserious female offenders into secure community facilities, partly as a way to free up space in the overcrowded prison system. He plans to start with moving 2,800 women into locked community facilities. Five companies have submitted initial bids for 19 facilities, with final bids due in April.

**Community Placement**

- 1. Please describe the contacts you have had with community groups in neighborhoods where you plan to locate these facilities. Have you had community meetings or met with local elected officials? What is the level of support or opposition?**
- 2. These community facilities are intended for at least 75 inmates. How was that size arrived at and have you considered establishing facilities with a smaller number of inmates?**
- 3. What are the security concerns about placing these women back in the community? How do you plan to address the concerns?**
- 4. The state plans to provide around-the-clock security at the community facilities. What liability will the contract provider have if a woman escapes?**
- 5. If this plan takes effect, what will the department do with the space currently occupied by female inmates? Do you plan on consulting with local communities on how to utilize the space? Do you hope to convert it to use by men and, if so, what is the estimated cost?**

\* \* \* \* \*



**GENDER RESPONSIVENESS**

In 1999 the U.S. Justice Department held a conference on women offenders and summed up the problems faced by female inmates in the following way: "Women offenders are also more likely than men to have become addicted to drugs, to have mental illnesses, and to have been unemployed before incarceration. These different circumstances, together with the general rise in the number of women in the system, point to the need for different management approaches as well as different programming to ensure parity and provide interventions that reduce recidivism." In January 2005 the prison system established a task force on female inmates known as the Gender Responsive Strategies Commission. The administration said it was set up to address the growth in the female inmate population, lower recidivism, and address the differences in male and female incarceration, management, and rehabilitation.

**Gender Responsiveness**

- 1. What do you see as the different needs of female inmates and what have you done to address them?**
- 2. What are the recommendations of the Gender Responsiveness Strategies Commission? How have they been translated into operational changes at female institutions? Are there barriers to implementing them?**
- 3. To what extent have correctional officers at prisons participated in the work of the commission?**
- 4. Have you initiated gender responsiveness training for prison staff members? If so, how many hours per year does it entail?**
- 5. What efforts have you undertaken to tailor classroom education, vocational education, and other in-prison programs to the needs of women?**

\* \* \* \* \*

**WOMEN AND THEIR CHILDREN**

In her 2006 study, "Understanding California Corrections," University of California researcher Joan Petersilia said 64 percent of women imprisoned in California are mothers, and nearly a third have children under the age of six-and-a-half. Upon release from prison, she said, most of these women expect to be reunited with their children. Yet, she said, "Prisons often make it very difficult for mothers and children to maintain meaningful connections during the mother's incarceration."

**Women and Their Children**

- 1. Currently you have two well-regarded Family Foundation programs in San Diego and Santa Fe Springs, where inmates live with their small children and receive counseling and treatment. What is the status of plans to establish a third such program in Fresno?**
- 2. What other efforts have you undertaken to help mothers and their children maintain meaningful connections?**
- 3. Have you expanded visiting times and days at the women's institutions to make it easier for inmates to bond with their children and maintain family ties? If this has not happened, what are the barriers to expanding visiting opportunities?**
- 4. What parenting education programs are available to women inmates? Have you expanded these programs during your tenure as associate director of female institutions?**
- 5. Are you responsible for determining whether the programs are successful or is that the duty of the chief deputy secretary for adult programs?**

\* \* \* \* \*



**EDUCATION**

According to the department's Executive Report for the fourth quarter of 2006, the number of inmates who completed high school or received a GED was 116, dramatically down from 221 in the third quarter. Likewise, only four people completed college programs in the fourth quarter, compared to 143 in the third quarter.

**Education**

- 1. What are the barriers to increasing enrollment in both academic and vocational programs? How do you measure the success of inmates in these programs?**
- 2. At some prisons, inmates are allowed to use typewriters or word processors for writing school reports, but at others they are required to write them out longhand. Do you have a standard policy for report writing?**
- 3. What efforts do you take to determine whether women who have completed vocational programs—such as cosmetology—actually get jobs and keep them? What sort of follow through do you do?**

\* \* \* \* \*

**WOMEN AND DRUGS**

In her report on California prisons, Dr. Petersilia of the University of California, Irvine, also noted that the growth in the percentage of women in prison is often attributed to the war on drugs. In California, she said, harsher punishment for drug crimes has contributed to the increased imprisonment of women which jumped more than 20 percent between 1994 and 2004.

On average, the department reported, the number of inmates in substance-abuse programs at four female institutions dropped from 881 in the second quarter of 2006 to 720 in the third quarter and 720 in the fourth quarter. The

average number of slots occupied at each institution dropped from 849 in the second quarter to 714 in the fourth quarter.

**Women and Drugs**

- 1. The average number of women in drug programs and the average number of slots dropped over the course of 2006. What are you doing to improve these figures?**
- 2. What new programs have you instituted to combat drug addiction among female inmates?**
- 3. What are the obstacles to enrolling more women in substance-abuse treatment programs?**
- 4. How do you measure whether drug treatment helps to lower recidivism rates?**
- 5. How extensive is the illegal use of drugs, alcohol, and cigarettes in female institutions? What efforts have you undertaken to reduce the availability of these substances?**

\* \* \* \* \*

**PAROLE**

The legislative analyst recently said that, for the system as a whole, the number of parole violations that resulted in an offender being returned to prison has increased fivefold during the past 20 years.

**Parole**

- 1. What is the recidivism rate for female inmates?**
- 2. What are the most important skills you can teach inmates to prepare them for parole?**
- 3. What do you consider the best in-prison program you have instituted that helps to reduce the barriers inmates face to a crime-free life when they are paroled?**

\* \* \* \* \*

*Prepared by Mark Gladstone*





Senate Confirmation  
Wendy Still, Associate Director  
Female Offender Institutions  
Response to Senate Rules Committee Questions  
February 14, 2007

**Statement of Goals**

*As of December 31, 2006, California incarcerated 10,700 women primarily at four institutions: Valley State Prison and the Central California Women's Facility, both in Chowchilla, the California Institution for Women in Corona and the California Rehabilitation Center, Women in Norco. The associate director for female offenders is also responsible for a community correctional facility at Live Oak, north of Sacramento, and three camps.*

**1. What are your goals and objectives as the first associate director for female offenders? What have you accomplished and what do you hope to accomplish in your current position?**

My vision for the Female Offender Programs and Services is to provide a rehabilitative environment where female offenders are treated with dignity and respect and receive gender responsive supervision, treatment, and services that increase opportunities for successful reintegration into their communities while protecting the safety of the people in the State of California.

My primary goals include providing a safe environment for staff and female offenders, improving rehabilitative programs and outcomes, and supporting family reunification which will help break the intergenerational cycle of incarceration.

My objectives include creating a gender responsive program designed to address the specific needs of the female offenders; expanding educational, treatment and community placement opportunities, and creating a culturally competent and continuous learning environment. My objectives for staff are to provide career development opportunities, keep positions filled, and develop the workforce to ensure continuity of program, and successfully perform the programs stated in the mission.

My initial goal for the gender reform effort was to establish a mechanism to evaluate, initiate, and implement gender responsive programs and services into the Departmental operations, and to provide focused leadership for these initiatives.

These goals have been reached by the adoption of a specific vision and mission for the female offenders; establishment of the Female Offender and Civil Addicts Mission, and the creation of the Gender Responsive Strategies Commission (GRSC).

National research has proven that programming that is gender based and trauma informed reduces recidivism and aids in the successful reintegration of the female offender into society.

Senate Rules Committee

FEB 14 2007

Appointments

To develop, evaluate and implement gender responsive programming the Department has contracted with national experts in the field of gender responsiveness to evaluate the current classification system to make it gender responsive. The Department will establish the first Bonding Mothers with Babies nursery program for 20 female offenders and their babies at the California Institution for Women (CIW); has implemented a mother-child visiting program and will soon activate a mediated visiting program at CIW which will work to build and strengthen systems of family support and family involvement during the period of a mother's incarceration at CIW; is studying the victimization of the female offender in prison; has developed a specialized core training curriculum for the Basic Correctional Officer Training Academy; is in the process of creating 40 hours of specialized training for staff working with female offenders at the female institutions; has increased substance abuse program opportunities for female offenders; will create an Individualized Treatment and Rehabilitative Plan which combines risk needs assessment with an individualized case management plan for female offenders; and will implement the Chowchilla Family Express providing the only statewide free bus transportation in the country to children and their families of incarcerated women on a monthly basis to support and improve family reunification.

Additionally, the Department: is scheduled to activate a new 200 bed Substance Abuse and Trauma Treatment at the Leo Chesney Community Correctional Facility (CCF) by July/August 2007;; revised policy to authorize civil addicts to participate in the community-based Drug Treatment Furlough program (DTF); will hire social workers to support the Third Day Visiting program and the Chowchilla Family Express and Family Reunification efforts; is scheduled to expand the Family Foundation Program (FFP) by 35 beds in July/August 2007 to support family reunification; and opened the first female Psychiatric Services Unit on January 31, 2007 at CIW.

The Female Offender Programs and Services accomplishments to date are:

- February 2005, established a Gender Responsive Strategies Commission (GRSC) as an Advisory Committee to assess and make recommendations on proposed strategies, policies and plans specific to women offenders. These gender-responsive strategies will emphasize the implementation of evidence-based policies, programs and procedures that foster personal growth accountability, self-reliance, education, life skills, workplace skills, and the maintenance of family and community relationships to lead to successful societal reintegration.
- The commission is comprised of representatives of community, state, local, legislative, and labor organizations; previously incarcerated individuals; staff representing the various disciplines within the Department; and nationally recognized researchers in the field of female incarceration and community based programming. Commission meetings are held bi-monthly.



- In March, 2005, adopted the recommendations of the Little Hoover Commission (LHC), Senate Resolution 33, Assembly Bill (AB) 90, and the guiding principles of the National Institute of Corrections (NIC) report prepared by Drs. Bloom, Owen, and Covington and published by the NIC.
- In April 2005, developed strategies specific to female offenders that have been incorporated in the California Department of Corrections and Rehabilitation (CDCR) Strategic Plan 5.3.6. These strategies are based both on the data profiles of women offenders and a vision for reducing recidivism by targeting women's pathways to prison.
- On May 26, 2005, revised departmental regulations to establish evidence-based, gender-appropriate pat search practices. This was based on studies conducted by the Bureau of Justice which found that more than 57 percent of incarcerated women have been sexually or physically abused at some time in their lives, and on case law that established that body searches of previously-victimized female offenders by male staff contribute to re-traumatization.
- In June 2005, delivered training to wardens and institutional executive leadership relative to the management of female offenders. Staff attended training provided by the NIC including "Developing an Agency-Wide Approach to Women Offenders and Operational Practice in Women's Prisons."
- In July 2005, contracted with Barbara Bloom, Ph.D., and Barbara Owen, Ph.D., nationally recognized experts, to collaborate with the Department and the Commission to design correctional policies, programs, and housing strategies that reflect gender distinctions and address women's issues while maintaining safety and security.
- In August 2005, established mechanisms to capture previously unavailable statistics relative to the female offender population, e.g. number of female offenders eligible for CCF placement that is crucial to the implementation of housing and classification goals.
- In October 2005, CDCR Executive Staff from Adult Operations and Juvenile Justice attended the NIC's training "Clearing a Path for Girls and Women – A Call to Action" in Bloomington Minnesota.
- In December 2005, submitted a comprehensive Female Offender Reform Program Budget Change Proposal (BCP) for Fiscal Year (FY) 2006/2007 which was subsequently approved as part of the FY 2006/2007 Budget Act.
- In January 2006, the NIC provided executive-level training on gender responsive operational policy and practices. The training was taught by national experts in

the field of female incarceration. This training was provided to multi-divisional executive level staff that impacts the development of female offender policies.

- In January 2006, developed a phased housing plan to shift 4,500 Level I and II female offenders to community-based, smaller facilities. This will be complemented by provision of "wrap around" services including pre-release planning, gender-specific health care, education, vocation and work programs, as well as substance abuse and trauma treatment.
- In March/April 2006, trained the management of all four female prisons on gender responsive principles, strategies and safer prisons for women as related to the Prison Rape Elimination Act (PREA).
- In March 2006, began the process of reviewing all custody positions in female institutions to identify those that should be gender restricted based on a bonafied occupational qualification.
- In April 2006, developed procedures, received endorsement authority and implemented a drug treatment orientation pilot program for female offenders to increase the number of women eligible for community DTF program participation. Also, trained institutional Classification and Parole Representatives.
- In June 2006, issued a revised gender responsive Departmental policy related to Pregnant Female Offenders that complies with the newly enacted AB 478 which became law effective January 1, 2006.
- In June 2006, determined site placement of a Psychiatric Services Unit at the CIW. Activation of the first phase is January 31, 2007.
- In July 2006, developed a comprehensive proposed revision of female property policies which was approved in September 2006.
- In July 2006, released a Request for Proposal (RFP) for the 4,350 bed Female Rehabilitative Community Correctional Centers.
- In July-November 2006, ten institutions added a third day visiting program for male offenders to support family reunification. The CDCR will add a monthly Chowchilla Family Bus Express for Valley State Prison for Women (VSPW) and Central California Women's Facility (CCWF). Estimated activation date is March 2007.
- In August 2006, contracted with Pat VanVoorhis, University of Cincinnati, to examine the Department's current classification system against concerns for validity, over-classification and assessment of risk/needs relevant to correctional



rehabilitation with a special focus on gender responsiveness. The formal evaluation of the existing system has been completed. A report was provided to executive staff on December 5, 2006.

- In August 2006, contracted with Barbara Bloom, Sonoma State University, to design and develop a blueprint for a continuum of community-based correctional program and services for women offenders (and their children) from intake to parole and to provide wrap-around services upon parole.
- In August 2006, held a Mandatory Bidders Conference for the 4,350 bed Female Rehabilitative Community Correctional Centers with approximately 74 potential bidders representing approximately 48 organizations in attendance.
- In August 2006, released a Request for Information for monthly bus transportation services for the female offender's children, and their families, incarcerated in the Central Valley women's prisons.
- In August 2006, contracted with Barbara Owen, California State University, Fresno Foundation to research, develop, and disseminate information relative to two aspects of operational practice in line with the Master Plan for Female Offenders: training and educating staff about gender-responsive practices and appropriate ways of working with female offenders; and addressing sexual violence/victimization among female offenders.
- In August 2006, contracted with national expert, Stephanie Covington, to review the existing network of women offender substance abuse programs to determine if they are gender responsive and trauma informed. Scope of Work will include providing recommended program enhancements and a tool to complete on-site evaluation of all programs.
- In August 2006, activated an 18 bed licensed Correctional Treatment Center for women at CIW.
- In September 2006, received contract approval to implement the Bonding Mother with Babies for 20 female offenders and their babies. This program allows pregnant female offenders to bond and care for their child for an extended period in a specialized unit within the institutional setting. Additionally the Parent/Child and Mediated Visitation program which works to build and strengthen systems of family support and family involvement during the period of a mother's incarceration will be implemented. Both programs will be located at the CIW.
- In September 2006, received approval to make the pilot drug treatment orientation program for female offenders permanent.

- In September 2006, submitted a Statewide Bed Expansion BCP to the Department of Finance which included staffing and operational funding for the 4,350 Female Rehabilitative Community Correctional Center (FRCCC) Beds, and 35 additional FFP beds in Fresno. The FRCCC pre-activation staffing and funding for the 35 FFP beds is included in the Governor's proposed FY 2007/2008 budget.
- In October 2006, held the first of three design and planning workshops with substance abuse and trauma treatment experts, national researchers, Department of Alcohol and Drug, institutional, parole and program staff which help design the continuum of substance abuse services for female offenders. The workshops are facilitated by National Expert Stephanie Covington.
- In December 2006, began cosmetology license testing for female offenders. The CDCR has worked with the Board of Cosmetology to bring on-site testing at VSPW and CCWF for cosmetology licensing for female offenders who have completed the license requirements. The first licensing test was held on December 13, 2006, and four out of nine women successfully passed the test and received licensure. Additionally, one woman tested on December 19, 2006, and paroled on December 22, 2006. CDCR purchased the cosmetology tools necessary so she could find gainful employment.
- In January 2007, expanded community based drug treatment options for female and male civil addicts. The CDCR has worked with the Board of Parole Hearings to change policy that enables civil addicts to participate in the community-based DTF program.
- In January 2007 activated the 10 bed Psychiatric Services Unit for female offenders at CIW.
- In January 2007, held the second of three design and planning workshops with substance abuse and trauma treatment experts, national researchers, Department of Alcohol and Drug, institutional, parole and program staff which help design the continuum of substance abuse services for female offenders. The workshops are facilitated by National Expert Stephanie Covington.
- In February 2007, conducted the first of a series of Research Experts meetings to begin priority setting for future Female Offender Research Projects. Also received preliminary feedback related to existing female substance abuse program review being conducted by Stephanie Covington and Dr. Barbara Bloom.
- Third Quarter Institutional Appeal Statistics reflect 3.55 appeals per 100 female offenders in comparison to 6.05 per 100 male offenders. This data supports the



reform efforts of improved environment, increased staff communication and increased programming opportunities.

- Third Quarter Director Level Appeal Statistics reflect .32 appeals per 100 female offenders in comparison to 1.02 appeals per male offenders. This data supports the reform efforts success in changing cultural norms to be more gender responsive, treat the female offender with dignity and respect and resolve issues at the lowest possible level.

As recognized by the NIC in the December 2003 General Policies and Practices, programming that is gender based and trauma informed reduces recidivism and aids in the successful reintegration of the female offender into society.

The goals for the Female Offender Program and Services for FY 2007/2008 are:

- Create and distribute a Female Offender Master Plan which provides the framework for the programming and management of all female offenders;
- Begin to award contracts and begin activation of the 4,500 community based beds which house non-serious, non-violent female offenders and provide a treatment environment that provides complete wrap-around services;
- Design and implement a mandatory, 40-hour specialized, gender-responsive training for all staff who work with female offenders;
- Begin the development of a gender-responsive classification system for female offenders;
- Create an Individualized Treatment and Rehabilitative Plan which combines risk needs assessment with an individualized case management plan for female offenders;
- Activate the Bonding Mother with Babies program for 20 female offenders and their babies at the CIW; May/June 2007;
- Activation of the permanent Parent/Child Visitation program which will work to build and strengthen systems of family support and family involvement during the period of a mother's incarceration at the CIW;
- Begin construction of the second phase of the 20 bed Psychiatric Services Unit at the CIW;

- Complete the Planning and Design Summits which will assist with the development of a Master Plan for the women's substance abuse treatment in institutions and community-based programs;
- Activate the free monthly Chowchilla Family Bus Express for the VSPW and the CCWF to support Family Reunification in March 2007;
- Complete hiring of social workers to support the Third Day Visiting program and the Chowchilla Family Bus Express and Family Reunification efforts;
- Activation of additional beds at the DTF program;
- Activate the Drug and Trauma Treatment Program at the Leo Chesney CCF for 200 female offenders;
- Activate 35 new beds at the Fresno FFP.

**2. *What specific challenges have you encountered in reaching these goals and objectives? What have you done to address these challenges?***

Implementing major change is difficult in any large organization. While we have made significant progress in our departmental female offender reform efforts, we have also experienced many challenges. These challenges include attitudinal, cultural, resources, and leadership changes. The Department's attitudes, rules, and culture toward incarcerating and programming female offenders have evolved over 100 years. Changing these attitudes and the historical culture can only be accomplished through educational awareness related to gender responsive principles, training and implementing numerous policy and program changes.

We have over 14 major components to reform. In a matrix organization, implementing these massive changes requires the support of staff at a variety of levels. Continuing staff changes throughout the Department at a variety of levels results in the need to re-educate critical partners on the fundamentals of gender responsiveness and inhibits the speed at which reform can be accomplished. Major reform initiatives are occurring throughout the Department, all of which are competing for the same matrix support resources. The current state contracting processes significantly impairs the speed in which new programs can be implemented. Additionally, roles and responsibilities of matrix functions are in the definitional stage which creates additional challenges.

Medical, dental and mental health clearances continue to be a major inhibitor to the placement of low level, non-serious, non-violent female offenders into community based treatment programs. Healthcare's priority in providing constitutionally required levels of care, limits the availability of healthcare resources that are needed to clear women for community based program placement.



Other challenges that have impacted our gender reform efforts include resources in the field and at the mission level. The elimination of the Community Resource Manager position several years ago at the institutions, due to budget constraints, eliminated the only dedicated resource the institution had to develop and expand critically needed volunteer and self-help sponsor programs. Examples of these valuable programs include Alcoholics and Narcotics Anonymous, trauma groups, Alternatives to Violence Programs and Mentoring programs. While we currently provide these programs for women, significant expansion is needed and there is no dedicated resource available to actively recruit and maintain a sufficient amount of sponsors and volunteers to provide these programs. The majority of female offenders have significant histories of trauma, and substance abuse. Expanding these program opportunities for women is an important rehabilitative program component. Effective mission oversight and implementing major reform requires an adequate number of dedicated resources.

Our efforts to address these challenges include:

- 1) Developing specific reform project goals and timelines for the various components of our reforms efforts;
- 2) Monthly reporting to Executive leadership on the progress of the reforms and identifying barriers in which we need assistance. Secretary Tilton has created this project-monitoring and reporting process for specific reform efforts to assist with problem resolution and project accountability;
- 3) Partnering with matrix areas, as necessary, where reform efforts intersect;
- 4) Being a strong advocate for project needs and goals;
- 5) Redirecting and redeploying mission resources to assist with reform efforts;
- 6) Provide training to executive staff members, wardens, parole administrators and institutional managers on gender responsive principles;
- 7) Enlist the assistance of the NIC and other national experts to develop master plan strategies and educate staff at various levels on gender responsive principles;
- 8) Request additional assistance in our gender reform efforts.

### **Gender Specific**

*The department has established a gender-specific committee to make its female institutions more responsive to the needs of female offenders.*

3. ***What have been your findings about the specific needs of female inmates? Do female inmates need to be treated differently than male inmates in order to reduce female recidivism? How have you put your findings into effect at the female institutions and how are the findings shaping the master plan for women's prisons currently being developed?***

National research has shown that targeting a woman's pathway to crime through community programs, providing gender-responsive treatment and education improves outcomes and reduces recidivism. Furthermore, evidence based, gender responsive approaches have the greatest potential for breaking the cycle of crime for the female offenders and their children. Critical to this success are the community-based programs for the non-serious, non-violent female offender, which provide a wide range of rehabilitative services that assist women with alcohol and drug recovery, trauma treatment, employment, education, housing, family reunification, medical and mental health services and social support. Providing a continuum of these services from intake through parole and including provisions for "wrap around services" for the female parolee, aids in the successful reintegration into society thereby reducing recidivism.

Yes, female offenders differ from their male counterparts in a variety of ways. For example, a female offender is more likely to have been a primary care giver of young children at the time of arrest, to have experienced physical/or sexual abuse, to be confined for property and drug crimes and to have distinctive physical and mental health needs. Additionally, women are less likely to be convicted of violent offenses, pose less danger to the community and are more successful in community based therapeutic programs (Gender Responsive Strategies: Research, Practice and Guiding Principles, Bloom Owen and Covington).

As a base, CDCR's female reform effort and master plan will follow the six guiding principles developed by Bloom, Owen and Covington and recognized by the NIC:

1. Gender: Acknowledge that gender makes a difference;
2. Environment: Create an environment based on safety, respect and dignity;
3. Relationships: Develop policies, practices and programs that are relational and promote healthy connections to children, family, significant others and the community;
4. Services and Supervision: Address substance abuse, trauma and mental health issues through comprehensive, integrated, culturally relevant services and appropriate supervision;
5. Socioeconomic Status: Provide women with opportunities to improve their socioeconomic conditions;
6. Community: Establish a system of community supervision and re-entry with comprehensive, collaborative services.

Our gender responsive findings have been put into effect to develop the policy, program and housing changes that are detailed in question one.

The Master Plan development is consistent with current research regarding female offenders and expands on the Department's Strategic Plan, Objective 5.3.6, which states, **"Establish gender reform efforts to evaluate all aspects of female offender**



**management and develop gender responsive policies and practices to address their specific needs and improve outcomes.”** Successful implementation of the approved plan is predicated upon collaboration with other CDCR Divisions, the California Governor’s Office, the Legislature, staff, labor organizations and community partners to create a sound approach in addressing female offenders through gender-responsive policy, practice and programs.

Considerable research and information has been gathered in the development of the gender responsive strategies being identified in the Master Plan. The goal of the plan will be to:

- Reduce recidivism through the provision of gender responsive programs and services by targeting female pathways to offending;
- Create a community based approach to rehabilitation, including adoption of gender-appropriate housing strategy by:
  - Increasing community options for all female offenders;
  - Partnering with community providers.
- Plan for successful re-entry at intake at the county level and in CDCR Institutions by implementing the Coordinated Case Management Plan which will assess, oversee and evaluate the female offender from intake through discharge;
- Increase educational and vocational opportunities for female offenders;
- Expand substance abuse treatment by increasing gender-appropriate modalities;
- Create Trauma-informed and culturally competent programs;
- Improve overall wellness for female offenders through enhanced delivery of physical, mental health and dental care;
- Create new opportunities for connecting and reuniting the female offender with children and family;
- Increase all forms of safety for women offenders in the institutions and in community facilities.
- Match institutional housing/programming and community placement to a gender appropriate assessment;
- Develop gender appropriate staffing patterns, caseload and training for all staff and managers who work with female offenders.

### **Custody**

*The average annual cost to incarcerate an inmate is \$43,000, including \$19,500 for security costs.*

- 4. *How overcrowded are your facilities at the present time? What is your custody staff vacancy rate and how many new recruits have been made available to staff your institutions?***

The female institutions are experiencing the same overcrowding conditions as are found in the male institutions. Following is the current occupancy and population, as of midnight, January 31, 2007:

Institution	Percent Occupancy	Current Population (females unless otherwise indicated)	
		<i>Felons</i>	<i>Civil Addicts</i>
California Rehabilitation Center	214.3 males; 140.6 females	3,067 males; 398 females	820 males; 305 females
Central California Women's Facility	193.9	3,884	2
Valley State Prison for Women	191.8	3,788	9
California Institution for Women	193.4	2,554	11

Following is specific information regarding institution custody vacancies.

Institution	Positions Allocated	Positions Vacant	Vacancy Rate (%)
California Institution for Women	424.8	34.8	8.19%
California Rehabilitation Center	786.7	100.9	12.79%
Central California Women's Facility	494.9	40.9	8.27%
Valley State Prison for Women	513.7	41.8	8.14%

Information provided is based on total Correctional Officer, Sergeant and Lieutenant authorized positions versus vacant positions in the January 2007 State Controller's Office report.

Following is specific information by institution on the number of academy graduates and lateral transfers:

Institution	October 2005 – October 2006		November 2006 – June 2007	
	Lateral Transfers	Academy Graduates	Lateral Transfers	Academy Graduates
California Institution for Women	33	35	0	35
California Rehabilitation Center	5	28	16	18
Central California Women's Facility	5	11	0	5
Valley State Prison for Women	8*	5	0	8

\*VSPW converted 8 Permanent Intermittent Correctional Officers to permanent, full-time

### **Self Help, Vocational and Education Programs**

*The California Department of Corrections and Rehabilitation (CDCR) reorganization of 2005 re-designed the chain of command, separating program and custody administration into distinct units, both reporting to the CDCR Undersecretary and the Secretary.*



**5. *Who is responsible for self-help, vocational and educational programs at your institutions? Who is in charge of monitoring program quality, creating new programs, or improving existing ones? How do you differentiate your role in programs from that of the Chief Deputy Secretary for programs in Sacramento and her staff or the individual wardens?***

The Warden of each institution has direct responsibility for the individual Education Department. The Office of Correctional Education (OCE) provides functional supervision to the school site principals and serves in an advisory capacity to the institutional administration regarding educational issues. The individuals responsible for the academic, vocational, and education related self-help programs at the individual institutions are the school site principals. Various other institutional staff also assist the Warden with self-help group recruitment and sponsorship.

The Superintendent of Correctional Education and Assistant Superintendents in the OCE provide functional oversight of the school site programs. I work with the Assistant Superintendent over the female institutions collaboratively to establish and/or improve educational programs that address the unique criminogenic pathways and characteristics of the female offender. The Assistant Superintendent and I partner with the individual Warden at each facility and with the school site principal to monitor program quality, create new programs, resources and material needs for the female population being served. The collaboration is further enhanced by the Assistant Superintendent's participation as an established member of the GRSC since its inception in April 2005. The Computer Statistics (COMPSTAT) process is also used to monitor program participation and needs.

My role is to facilitate bringing programs to the institutions, work with the Wardens to resolve issues and provide oversight to maximize educational opportunities for the female offenders and to facilitate resolution of identified barriers. Education's role is to identify appropriate programs and work collaboratively with my staff and the institutions to effectively implement those programs. I also communicate program priorities and requests to the Chief Deputy Secretary as needed for assistance and work with the Chief Deputy Secretary on cross divisional operational and program issues.

**6. *How do you balance the custody considerations and program needs?***

The reform of the Department in July 2005, to add rehabilitation back into our mission requires that programming must be treated equally as important as security. Prisons should be operated as rehabilitation centers in which the female offender is provided appropriate programming and treatment matched to her individual needs.

The female offender has different pathways to crime than the males and, statistically their crimes are less violent. Because of these differences, programming opportunities

and locations can be expanded and balanced successfully with security requirements; while also maintaining the safety and security of the staff, inmates and the community.

To achieve the twin goals of security and programming, the culture of the institutions and gender responsive awareness must be addressed. As we continue with our increased knowledge of the female offenders' needs and women's pathways to criminality, we must continue to educate staff through training. Changing culture takes time, but if principles are applied consistently, the culture will become more accepting and increased programming opportunities will result in enhanced security.

Security will always be priority in terms of safety within the institution and in the surrounding communities, but there must be a balance if we are to address the specific needs of the female offender to reduce recidivism and put an end to the cycle of intergenerational incarceration.

**7. In its 2004 report the Little Hoover Commission said female inmates are given little preparation for parole. "Predictably, nearly half of these women violate the conditions of their parole and end up back in prison. More than 90 percent of those violations are for non-violent behaviors." Do you believe parole preparation has improved since the 2004 Little Hoover report? Please explain.**

I believe that parole preparation has slightly improved since the 2004 Little Hoover report. Additional resources have been added and an increased number of needs assessments are being completed prior to parole. I also believe there are efforts underway that will improve parole preparation and transition into the community if they are successfully implemented. Many areas of the Department are actively working on implementing parole and re-entry components that, when fully implemented, will significantly improve the chance for women to successfully re-integrate back into society.

These components include implementing a pilot risk/needs assessment for female offenders at initial intake into the system and creating a program, based on time to serve, the individual needs of the woman and a transitional parole plan completed prior to release. Other programs include the SB 618 pilot program which is a state/county pilot program for female offenders that will begin rehabilitative program assessment and re-entry planning while still at the county.

Expanded parole planning and re-entry services, increased opportunities to participate in prison educational, vocational, substance abuse and trauma, and re-entry programs, and a better "hand-off" to the parole agent for service support is critical for successful re-entry in to the community. Another program which is critical for improved service delivery is the 4,500 community based bed expansion as previously stated. Additionally, if there is a decision to eliminate or reduce parole for non-serious, non-



violent offenders, it will be imperative for the success of women offenders to not reduce transitional residential, treatment, educational and employment services. The ability for the women to access transitional services with case management support is the key to women successfully reintegrating back into society. Without these services, the vast majority of women will return to criminal behavior to survive and ultimately be returned to prison.

- 8. Department figures show that education classes are running at 97 percent of capacity, with hundreds of inmates waiting to enroll in classes. Please describe the resources available for women to receive education, including literacy instruction. Are efforts underway to expand the educational opportunities available in your institutions? What are the barriers to expanding education program?**

The women's institutions offer a combination of Academic, Vocational, Literacy and Alternative delivery education programs. Listed below are the education programs at each institution:

	CIW	CCWF	CRC	VSPW
	# Classes	# Classes	# Classes	# Classes
Academic [1], [2]				
English Language Development	1	1		1
ABE I	1	5	2	3
ABE II	1	5		4
ABE III	1	5	2	4
General Education Development	1	1		2
High School		1		1
Pre-Release	1	1	1	1
Physical Fitness Training	1			
Conflict Anger Lifelong Management		1		2
Independent Study	1	1	2	2
Distance Learning	1	1		1
College	1	1	2	1



	CIW	CCWF	CRC	VSPW
	# Classes	# Classes	# Classes	# Classes
Vocational [2] [4]				
Office Services & Related Technologies	2	4	2	3
Janitorial Services		1		1
Print & Graphic Arts	1	1	2	1
Welding		1		1
Electronics		2 [4]		1 [4]
Landscape Gardening		1		
Small Engine Repair		1		1
Auto Repair		1		
Cosmetology		1		1
Mill & Cabinet		1		1
Dry Cleaning				1
Eyewear				1
Refrigeration & Air Conditioning				1
Painting			2	
Auto Mechanics				1

	# Classes	# Classes	# Classes	# Classes
Bridging	8	12		14

Total	21	47	15	49
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Additionally, the Department has approximately 288 students enrolled in other Literacy Programs within the four female institutions.

Education and work skills are a critical piece of the female offender's ability to become self supporting and a contributing member of society. I work collaboratively with the Wardens of the female institutions, their Education staff and the OCE to continually evaluate existing programs and identify any changes required to better meet the needs of the female population.

The barriers to expansion are funding, space availability and staffing. Currently, all of the women's facilities are close to maximizing the available classrooms. Most of the institutions will need to review alternative work hours in order to expand current programming. In order to maximize space, institutions will need to consider the 4/10/40 work schedule and provide programming 7 days a week or consider including a

3<sup>rd</sup> watch program (1430 – 2230 hours). However, this will also include the need to expand correctional officer Position Year (PY) authority to provide custody coverage.

Statewide recruitment and retention of teachers historically has been difficult; however, salary increases for teachers to bring pay into parity with public schools and Juvenile Justice is being addressed in the Governor's Budget for FY 2007/2008.

Current educational program expansions include:

1. OCE has designed a new curriculum, purchased equipment, and implemented a vocational trade for fiber optic installation. This program has recently been implemented at VSPW and CCWF. The courses are of short duration, approximately 2 months, which allows for industry certifications. The job market analysis indicates a high demand with a significant starting salary.
2. OCE will open a new Cosmetology Vocational Program at CIW in August 2007.
3. The Consumer Affairs Board of Barbering and Cosmetology has initiated and will continue to conduct on-site testing at the Women's Prisons.
4. A PLATO Literacy Lab will be opened at the Leo Chesney CCF by April 2007. OCE provided essential program support related to program activation.
5. A Fiber Optic C-Tech vocational program will be opened at the Leo Chesney CCF by April 2007. OCE provided essential program support related to program activation.

**9. *What is the average education level of female inmates?***

Each offender upon reception is administered a reading only Test of Adult Basic Education (TABE) which provides the Department with information on the average reading levels of the offenders. Offenders enrolled in education are administered a full battery TABE test, which includes reading, reading comprehension, mathematics, mathematic application, and language. This full battery TABE provides the Department with average grade point level.

For the fourth quarter of 2006, the full battery TABE test indicated that the average grade point level for the female offender population was 6.6, based on 1,602 tests administered. For the same period of time, the average reading only TABE test indicated the average reading level for the female offender population was 8.2 based on 1,799 tests administered during that quarter. It should be noted that High school, GED and College graduates being administered the reading only TABE test drive the average up for the unassigned offenders in the Reception Centers.



**Prison Industry Authority**

- 10. *The Prison Industry Authority (PIA) offers work opportunities for inmates. Because PIA is a separate entity within CDCR, how do you coordinate with its staff to provide PIA jobs and job training for inmates in your institutions? Are you consulted about PIA program changes that affect female inmates?***

I work closely with Prison Industry Authority (PIA) executive staff to develop programs that are designed to better prepare female offenders for their transition into society and provide skills that will make them self sufficient. Some examples of the programs that I have worked collaboratively with PIA to develop are the Female Carpenter's Training Program at CIW. This program uses organized labor sanctioned curriculum to train offenders so that they can transition into high paying construction jobs upon parole. In this program, participants will also assist PIA in the installation of several modular building structures that will be placed within CIW and other institutions for the rehabilitative, educational, and medical needs of CDCR inmates. The implementation of this program enabled CIW to construct a replacement training facility at CIW in order to train female firefighters; another skill that will be useful to paroling offenders in order to obtain employment.

Another example of my continued collaboration with PIA is the Alpha for Prisons program (a faith-based program) which PIA serves as an Executive Sponsor. I have worked with PIA along with the staff of Alpha to provide community mentoring of the offenders in life and coping skills that will better prepare them to be successful upon release.

Additionally, I work with PIA to promote the Joint Venture Program, which partners private enterprise with inmate employees for opportunities to perform real-world jobs and earn comparable wages.

Yes, I am consulted about PIA program changes that affect female offenders. I have formed a very close working relationship with PIA to ensure that the opportunities afforded the female offender to be trained in a skill will enhance their successful reintegration into society. I have found the staff there to be very innovative and responsive to the program needs of the female offender. The relationship I have forged with PIA has been instrumental in the success of the programs I previously mentioned.

PIA provides to me timely information, along with the Wardens, whenever they are contemplating contracting or expanding a PIA or Joint Venture Program, or developing a vocational education program under the management of PIA.



- 11. The average number of PIA assignments in female institutions dropped from 540 at the end of the second quarter to 136 at the end of the third quarter. In the same time period, PIA went from 96 percent of its assignments being filled to 69 percent. Can you explain the drop in assignments and what needs to be done to ensure that as many positions as possible are filled?**

The CDCR began utilizing COMPSTAT in January 2006, as a means of tracking and monitoring each institution's operations and programs. Data collected provides a detailed overview of issues affecting the operation of an institution; ensures that established goals are being met; and identifies any problematic areas that require intervention. The Female Institutions were selected to pilot the initial data report design and formulas. As a new method of collecting this data, the COMPSTAT tool's counting rules, data collection and data reporting formulas have continued to be refined and the quality of the data has continuously improved.

Because of the ongoing refinement of the COMPSTAT tools, there was not an actual decrease in assignments for this period of time, only methodology changes and formula problems. The original second quarter figures were based on total assignments for three of the four female institutions and divided by 4 instead of the 3 institutions as the California Rehabilitation Center (CRC) does not have an Industries program. COMPSTAT then changed the reporting formulas to *averages* instead of *totals* for the original third quarter reports.

Provided below is a table reflecting the actual average total PIA assignments and number filled for the second, third and fourth quarters:

<b>Prison Industry Authority</b>	<b>2nd Qtr. 2006</b>	<b>3rd Qtr. 2006</b>					<b>4th Qtr. 2006</b>		<b>Increase/ Decrease</b>
<i>PIA Assignments</i>	180	194	VSPW 200	CCWF 246	CIW 165	CRC 0	204	AVG A	10
<i>PIA Assignments Filled</i>	173	165	193	186	147	0	175	A	10

PIA assignment positions have actually increased slightly in the female prisons over the second quarter. The Female Offender Programs and Services Unit is committed to maintaining full employment of PIA positions and are engaged in that effort through constant coordination with Headquarters, Institution staff, and PIA. Participation variances are directly related to female offender's release dates or participation in Substance Abuse Programs (SAP).

Below is the same table as above reflecting total PIA participation for the three female institutions with industry programs. This provides a picture of the actual number of monthly available assignments and number of participants within the women's prisons:

<b>Prison Industry Authority</b>	<b>2nd Qtr. 2006</b>	<b>3rd Qtr. 2006</b>	<b>VSPW</b>	<b>CCWF</b>	<b>CIW</b>	<b>CRC</b>	<b>4th Qtr. 2006</b>	<b>SUM</b>	<b>Increase/ Decrease</b>
<i>PIA Assignments</i>	540	583	200	246	165	0	611	S	28
<i>PIA Assignments Filled</i>	518	495	193	186	147	0	526	S	31

### **Substance Abuse Treatment**

**12. *Who within the CDCR structure is responsible for deciding which female inmates receive substance abuse treatment? What is your role in monitoring program quality, program size and outcomes?***

All female institutions have substance abuse treatment programs available. Institution-based Correctional Counselors screen for female offenders with substance abuse histories who meet our established criteria and are then placed in our substance abuse treatment programs. The Office of Substance Abuse Programs (OSAP) is responsible for monitoring all aspects of the in-prison programs including, quality, size, and outcomes. The new Leo Chesney SAP will be jointly supervised by OSAP and my office. Additionally, I have direct oversight responsibility for the FFPs and Community Prisoner Mother Programs (CPMP) which also provide drug treatment services.

**13. *For the third quarter of 2006, your internal statistical report listed an average of 720 substance abuse treatment slots at all your institutions. That was down 162 from the previous quarter. Please explain this drop. In the same time period, 773 inmates completed the substance abuse treatment programs – a jump of 672 from the previous quarter. Please explain this dramatic increase.***

As mentioned previously the Female Institutions were selected to pilot the initial COMPSTAT data report design and formulas. As a new method of collecting this data, the tool's counting rules, data collection and data reporting formulas have continued to be refined and the quality of the data has continuously improved.

The second quarter figure of 881, for total SAP beds, is based on the total average number of substance abuse treatment slots for only three of the four female institutions. Additionally, the original data requirements for the second quarter did not require the collection of the "Number of Program Completions." This data collection began in the third quarter.



Below is a chart that accurately details comparable data for the last three quarters:

Office of Substance Abuse	2nd Qtr. 2006	3rd Qtr. 2006	VSPW	CCWF	CIW	CRC	4th Qtr. 2006	AVG	Increase/Decrease
SAP Beds	720	720	506	506	240	1,626	720	A	0
SAP Beds Filled	695	699	506	505	240	1,605	714	A	15
Number of Program Completions	834	773	178	187	117	339	821	S	48

### Inmates and their Children

*You currently oversee programs in San Diego and Santa Fe Springs for women inmates and their children. Studies have shown that women in these programs have a far lower recidivism rate than your general population.*

**14. How many women are in these programs? How many such facilities do you envision having a year from now?**

Currently, the FFP is at a 100% capacity (maximum) of 70 inmates. In 2005, the FFP averaged a monthly occupancy rate of 90% which has been improved to the current participation level of 100% since supervision and oversight was transferred to the Female Offender mission. Participation levels vary only slightly when a participant graduates and a new participant is pending arrival at the program.

The FFPs at San Diego and Santa Fe Springs each have a capacity to house 35 women and up to 40 children. One additional FFP will activate in Fresno in July 2007. This facility will add an additional 35 beds to bring the total program capacity to 105 female offenders.

**15. In 2006, the Legislature approved and the governor signed into law a measure that was intended to ensure that pregnant prisoners are not shackled while in labor, delivery or recovery and get access to vitamins and nutrition advice. Please describe the progress you have made implementing this law.**

Departmental policy, Article 45, Departmental Operations Manual (DOM) Sections #54045.1 through 54045.22, and notice to the field regarding the Care, Treatment and Security of Pregnant Offenders was issued on June 9, 2006, and the law and new policy were implemented. Prior to the Legislature signing the measure into law, the Department was providing pre-natal vitamins and had implemented a policy of no



restraint use while the mother was in labor. When the law was enacted, the Departmental policy was revised to also include no restraints after delivery until the inmate mother was to leave the hospital. The dental exam and cleaning was also a new policy and the dental policies and procedures were updated to include this requirement.

### **Community Placements**

*In the summer of 2006, governor Schwarzenegger announced plans to place 4,500 non-violent and non-serious female inmates into secure community facilities. That remains the administration's long-term goal, but in the near-term it has sought initial bids for 2,800 females to be placed in locked community facilities with security provided by state correctional officers. CDCR has received bids for 19 sites from five different bidders. Final bids are to be submitted in early April.*

#### **16. What commitments have you received from providers willing to open up space for these women? Can you say where these facilities will be located?**

An RFP was issued in July 2006, seeking bids for 4,350 female community based beds. The bidders were requested to provide both secure facilities as well as complete "wrap-around services" for the non-serious, non-violent female offenders. A bidders' conference was held in August 2006, and was attended by 78 individuals representing various companies throughout the nation. Pre-Bids were received in November 2006, from five different companies for 19 sites totaling 2,800 beds. It should be mentioned that these bids were received even though there was no authorized funding for this project. It is costly to put together the bids, with the facility architectural drawings, environmental reports, etc. The providers who submitted pre-bids, remain committed and enthused about the possibility of being a part of this innovative, rehabilitative effort. Formal bids will be opened April 3, 2007. Because this is a competitive bid process by location (as the intent is to locate these facilities in the areas the women were committed from), I am unable to disclose the locations at this juncture of the bid process.

#### **17. What role will the private operators have in ensuring adequate security?**

The Department contracted with a consulting management firm to develop facility (construction) guidelines. The intent of the guidelines is to be able to provide the program and services in a secure/safe environment. The private operators will first have to comply with the design requirements including door alarms and closed circuit TV monitoring. On an ongoing basis, all staff at the facility are responsible for: safety and security in their respective areas being alert at all times; reporting any inappropriate or suspicious behavior; and responding to emergencies. Staff will also receive initial and ongoing training regarding CDCR requirements. To a large extent, however, the structured therapeutic program itself is the primary security of the facility.

The contracted staff will provide the supervised treatment that will enable the female offender to accept and change the behavior that resulted in incarceration.

### **Information Technology**

- 18. *The figures on the web sites for Valley State Prison and Central California Women's Facility are from budget data that is at least four years old. What needs to be done to help you upgrade public data on your web site?***

The CDCR Office of Communications is responsible for maintaining the CDCR website. The institutions are responsible for providing updated information to that office. Each of the four female institutions has provided updates that were posted to the website in February 2007. The Division of Adult Institutions (DAI) is currently working on a process to keep the DAI's Facilities' WebPages updated.

### **Medical and Mental Health Care**

*The entire prison health care system is under federal receivership and a federal monitor oversees aspects of the mental health system.*

- 19. *Given the constraints of the federal courts and the pressure of a health care receiver, what role do you play in assuring access to health and mental health care?***

My role in the delivery of health care services, which includes medical, dental, and mental health services, is to ensure that the institutions are facilitating patients/offenders' access to care, providing services that are in compliance with court mandates and Departmental Settlement Agreements. I work collaboratively with the Federal Receiver and the Division of Correctional Healthcare Services (DCHCS) Headquarters staff to ensure compliance with court mandates and as an operational partner in issues related to delivery of care for female offenders. This includes meeting with, and providing direction to, the field, and participating in strategic discussions related to expansion and identifying available space for services. My office also participates in compliance reviews exit conferences and I am responsible for following up to ensure institutional operational compliance issues are addressed.

The first part of the paper discusses the importance of the study and the objectives of the research. It then proceeds to a literature review, followed by a description of the methodology used in the study. The results of the study are presented in the next section, followed by a discussion of the findings and their implications. The paper concludes with a summary of the main points and a list of references.

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Senate Rules Committee  
State Capitol Room 420  
Sacramento, CA 95814-4900

Attn: Nettie Sabelhaus  
Rules Committee Appointment Director

Dear Ms. Sabelhaus,

As requested by the Senate Rules Committee, I have prepared a brief statement outlining various goals that I may have an influence on, should my appointment to the Contractors State License Board be confirmed.

First, look at how important the rule of the License Board will continue to play in California, but particularly those regions, that are experiencing a population surge, that is creating a construction boom on the private sector, which will go parallel with the explosion this state, will see on the public side. I couldn't be more emphatic on the public side, now that the people of this state saw the need to pass all five of the Const. Bond measures, last November.

The License Board's most important function in existing and functioning is, to keep up with current legislation and modify the same legislation, to make sure it properly applies in the protection of the consumer.

Second, the Board's ability to pursue an active campaign, without let up, to keep the consumer informed, in tuned and alerted to these same laws in play, to educate the consumer from the pit falls, of what can happen otherwise.

Enforcement is a major role, which puts teeth into the License Board's ability to stop criminals, who act as License Contractors, who prey on the unsuspecting consumer. The enforcement division is the only deterrent there is, which performs daily, to stop and prosecute these same criminals. This however doesn't happen without the cooperation of our local law enforcement and district attorney's assistance.

For these three tasks to be carried out: the right staff and administration with the influence of our informed Board, which is made of a good cross section of our Construction industries and the working public.

Respectfully yours,

*Stephen A. Matich*

Stephen A Matich Senate Rules Committee

FEB 18 2007

**Appointments**



**Department of Consumer Affairs  
Contractors State License Board  
Short and Long Term Goals for  
Board Member Bernedette S. Medrano**

**Goal:** *Continue to improve consumer education/communication so that consumers may make informed decisions.*

**Short term:**

- Ensure that the public relations firm is a full service public relations and marketing communications specialist equally serving the English-, Hispanic-, and Asian-speaking markets. (The Public Relations Contract is due terminate October 2007.)
- To be proactive with consumer outreach in order to reduce the number of consumer complaints. This could be achieved with:
  - Continuing computer (web) efforts. The CSLB website is very user-friendly and interactive; however, it is predominantly English-based. CSLB's web site could also provide "click-ability" into other languages more readily.
  - Attending large consumer Home & Garden trade shows across the state staffed with CSLB appropriate-speaking personnel.
  - Developing relationships with non-English speaking print media in order to effectively disseminate media alerts and press releases to non-English speaking consumers.
- Continue to develop partnerships with other California government agencies to conduct seminars in order to inform and empower consumers against fraud at the local level and bring government to the people.

**Long term:**

- Establish relationships with the major home improvement retailers to financially support and install interactive computers (such as the airlines provide in hotels), so that consumer's could easily check and verify contractor's licenses. Another potential benefit of this relationship could be PSA assistance and dissemination of information through kiosks.
- Develop PSA's that could be aired on the various home improvement cable channels (i.e., HGTV, DIY, Fine Living).

**Senate Rules Committee**

FEB 15 2007

**Appointments**



Cynthia Mitchell  
102 Boxler Court  
Folsom, CA 95630

Honorable Don Perata  
Chair, Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814

February 6, 2007

Dear Senator Perata,

I am writing to introduce myself as a prospective board member of the Contractor's State License Board (CSLB) pending your approval. Although I do not have prior experience as a State Board member, I have been a licensed specialty contractor for many years. This experience, I feel, will definitely benefit the Board in many ways. First and most importantly, it will help in its efforts to educate and protect consumers in the State of California when dealing with the construction industry. Furthermore, this knowledge can assist the Board to better understand the important issues relating to reputable contractors.

This industry is a vital part of the State's economy and, due to its size along with the American dream of home ownership, affects many people in many different ways each day. From minor home repairs to building a custom home and everything in between, the citizens of California rely upon contractors to complete these jobs. Unfortunately, however, this results in some of these consumers becoming victims of unscrupulous licensed and unlicensed contractors. Often, this is due to their inexperience or lack of knowledge, but never is this result acceptable. One of the primary duties of the Contractor's State License Board is to educate consumers to avoid this outcome. Through outreach programs, reference material, and the media, to name a few, the Board must continue to develop ways to inform the public of the laws relating to this industry and how they can protect themselves. My role as a Board member is to help expand the means by which the consumers become better educated.

In addition to educating more people to avoid potential problems, the Contractor's Board must also enforce the laws to attempt to eliminate illegal work from being performed. The underground economy hurts everyone. Not only are consumers harmed, but also those businesses and workers that are abiding the law as well as the tax revenue that is denied to the State. Furthermore, unlicensed contractors pose a huge threat to homeowners. Not only are they unqualified to correctly complete the work which will ultimately damage the home, but there is an enormous liability risk to the homeowners since these workers are not protected by worker's compensation insurance. By improving the communication between the contractors, the consumers, and the Board, this illegal work can be greatly reduced. Indeed, these efforts to improve communication are also a major responsibility of mine as a member of the Board.

**Senate Rules Committee**

FEB 09 2007

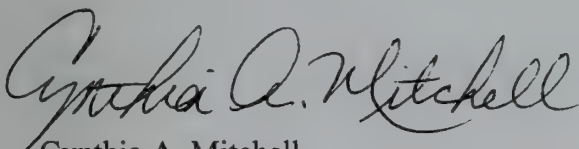
**Appointments**

Although much time and energy must be spent on enforcing the laws to reduce the number of dishonest contractors, another role as a Board member is to support the honest, licensed contractors since this will ultimately benefit the consumers too. Not only is this accomplished by eliminating that element of dishonest contractor as previously mentioned, but also by improving various processes for the law-abiding, licensed contractor that practices good business. One of these processes is licensing. Another is supporting good legislation. Both of these areas must also be accepted as major responsibilities by an effective Board member. Personally, in my position with CSLB, I knowingly have and accept these responsibilities.

In summation, a Board member with the CSLB has many vital roles. The most important being the protection of consumers in the State of California. If I am confirmed as a member of this Board, I promise to do my very best to accomplish this by being active with successful programs currently in place, proactive on the issues that will foreseeable affect the construction industry, and supportive of the staff and other Board members that also share my passion for striving for excellence.

Thank you for your consideration of my position as a Board member with the Contractor's State License Board.

Sincerely,



Cynthia A. Mitchell







**558-R**

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1:38 P.M.





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26 Evelyn J. Mizak  
27 Shorthand Reporter  
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APPEARANCES

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SENATOR ROY ASHBURN, Vice Chair

SENATOR GIL CEDILLO

SENATOR ROBERT DUTTON

SENATOR ALEX PADILLA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

SUSIE SWATT, Consultant to SENATOR ASHBURN

DAN SAVAGE, Consultant to SENATOR CEDILLO

CHRIS BURNS, Consultant to SENATOR DUTTON

BILL MABIE, Consultant to SENATOR PADILLA

ALSO PRESENT

LINDA S. ADAMS, Secretary  
Environmental Protection Agency

ANN NOTTHOFF  
NRDC

BILL MAGAVERN  
Sierra Club California

KAREN DOUGLAS  
Environmental Defense

DONNE BROWNSEY  
The Breast Cancer Fund  
Commonweal

KENT STODDARD  
Waste Management

BOB EPSTEIN  
Environmental Entrepreneur



1 DAN KALB  
Union of Concerned Scientists  
2  
3 RINA VENTURINI  
CALPINE Corporation  
4  
5 DUNCAN McFETRIDGE  
California Renewable Fuels Partnership  
6  
7 DANIEL JACOBSON  
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9 RANDY KANOUSE  
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10  
11 KATHLEEN COLE  
MWD of Southern California  
12  
13 JACKSON R. GUALCO  
The Gualco Group  
14  
15 REX HIME  
California Business Properties Association  
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17 DOMINIC DiMARE  
California Chamber of Commerce  
18  
19 SCOTT WETCH  
IBEW, Pipe Trades, Sheetmetal Workers  
20  
21 TIM CARMICHAEL, President  
Coalition for Clean Air  
22  
23 A. CHARLES CRABB, Government Affairs Director  
California Farm Bureau Federation  
24  
25 BRIAN WHITE  
California Forestry Association  
26  
27 BONNIE HOLMES GEN  
American Lung Association  
28  
29 JAN SMUTNY-JONES, Executive Director  
Independent Energy Producers  
30  
31 RON DAVIS  
Association of California Water Agencies  
32





1 V. JOHN WHITE  
Center for Energy Efficiency Renewable Technology

2 BOB RAYMER, Technical Director  
3 California Building Industry Association

4 KIM R. BLACKSETH, Member  
5 Building Standards Commission

6 STEVE ERICSON  
7 C-7 Paraplegic Disabled Citizen

8 TOM STEWART  
9 Lawyer

10 MATTHEW WHEELER  
California Building Officials

11 SCOTT JOHNSON  
12 Plaintiff Attorney

13 KURT COOKNICK  
14 The American Institute of Architects  
California Council

15 WARREN CUSHMAN  
16 Disability Committee

17 DAN KYSOR, Governmental Affairs Director  
California Council of the Blind

18 HOLLYNN D'LIL  
19 Coalition for Disability Professionals  
20 Californians for Disability Rights

21 SUSAN ROTCHY  
Ms. Wheelchair California 2007

22 TERELLE S. TERRY  
23 Gray Panthers  
24 Californians for Disability Rights

25 JEAN RIKER  
Californians for Disability Rights

26 RICHARD SKAFF  
27 Designing Accessible Communities





1 RUTHEE GOLDKORN, Executive Director  
2 Wheelchair California Pageant  
3 Californians for Disability Rights

4 BOB SEGALMAN, Ph.D.  
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--ooOoo--

CHAIRMAN PERATA: Unfortunately, Linda, we had to start without you. I briefly told about your position.

MS. ADAMS: Did you present my statement?

CHAIRMAN PERATA: I didn't use your statement. I just thought what I thought.

Linda Adams, who is here as the EPA Agency Secretary.

You may open.

MS. ADAMS: Thank you, Senator.

I just wanted to say that both my own Senator, Darrell Steinberg, as well as Senator Kuehl, offered to introduce me, but I was told that was not necessary. So, I will not take up any additional time.

CHAIRMAN PERATA: That's true. They both asked, and I said we'd be delighted if they wanted to come. They said, "Do I have to?" And I said, "No."

[Laughter.]

MS. ADAMS: Anyway, good afternoon, Senator Perata and Members of the Committee.

It was very nice to meet with all of you individually. And I must say, it's an honor for me to be here today and to serve the people of California as a member of the Schwarzenegger administration.

It was a pleasure to work with the Legislature last year on major legislation to protect the environment, including measures to create a statewide biomonitoring program,

1 to set standards to reduce lead in drinking water, and to set  
2 goals to reduce greenhouse gas emissions.

3 But much remains to be done. I'm committed to  
4 reducing air pollution in California. A key part of this effort  
5 is reducing emissions from goods movement sources, such as  
6 trucks, locomotives and ships. I'm working with the Air  
7 Resources Board to develop a proposal to allocate the one  
8 billion dollars in Proposition 1B funds for emission reduction  
9 projects related to the movement of freight in a manner that  
10 will reduce health risks in all four corridors of -- in all four  
11 of the state's goods movement corridors.

12 I also have written to the U.S. EPA, urging  
13 stronger federal action to reduce pollution from federally  
14 regulated sources.

15 Another priority of Cal EPA is to increase  
16 clean-up reuse of urban brownfields in order to encourage infill  
17 development and discourage loss of farmlands and open space.

18 In the area of waste management, we have  
19 successfully reached our 50 percent waste diversion goal, and I  
20 believe that setting further goals is appropriate.

21 Other areas I'm focusing on include: water  
22 quality; fair and consistent enforcement of environmental laws  
23 and regulations; ensuring environmental justice in California;  
24 and of course continuing my role to coordinate those activities  
25 of state government that will enable California to meet the  
26 overall goal of reducing greenhouse gas emissions to 1990 levels  
27 by 2020, as called for in Assembly Bill 32.

28 I'll make it very short, and that's it. Thank

1       you very much for your time.

2                   CHAIRMAN PERATA: We just saw lunch delivered, so  
3       I was momentarily distracted. I'm sorry.

4                               [Laughter.]

5                   CHAIRMAN PERATA: Thank you, Ms. Adams. I am,  
6       and I'm sure I'm joined by everyone else, delighted that you're  
7       in this position.

8                   MS. ADAMS: Thank you.

9                   CHAIRMAN PERATA: I think it underscores the  
10      Governor's commitment to the environment and to improving the  
11      quality of the environment in this state. He's done a lot in  
12      that regard, but putting people in administerial positions who  
13      can further the goals and objectives of the executive and also  
14      of the Legislature is extremely important.

15                   So, you've got a very strong record, and thank  
16      you for doing what you're doing.

17                   MS. ADAMS: Thank you very much, Senator.

18                   CHAIRMAN PERATA: The rest is now down hill.

19                   I want to just talk a little bit, you've got a  
20      big agency, an important agency.

21                   Since I've been on the Rules Committee, we have  
22      constantly been reminded by both the conditions that exist  
23      within state government and by administrative leadership that we  
24      are having a harder and harder time retaining a skilled  
25      workforce.

26                   You've got some very critical positions. You  
27      have to have engineers, and scientists, and medical doctors who  
28      are essential to your mission.

1                   Could you characterize what condition the  
2 agency's in?

3                   MS. ADAMS: Yes, sir.

4                   First of all, I do support adequate compensation  
5 for all of my Cal EPA employees. And like all of state  
6 government, Cal EPA Does face workforce challenges.

7                   I did a little research last night, and at Cal  
8 EPA we have -- about 40 percent of our employees are currently  
9 eligible for retirement. And I'm sure you're aware that a State  
10 Personnel Board study noted that Baby Boomers represent the  
11 largest segment of the state's workforce.

12                   And I'm happy to say that my agency will be  
13 working very closely with Department of Personnel Administration  
14 on the task force that the Governor's called for to review all  
15 of civil service.

16                   DPA has been supportive of the need to improve  
17 compensation for scientists, technology workers, and other  
18 professionals that do serve my organization.

19                   I think also that Cal EPA may be in a somewhat  
20 unique position because of our -- I think the issues that we are  
21 addressing, environmental protection, are attractive to a lot of  
22 people, and particularly the issue of climate change. So, we  
23 are actually attracting people who might be willing to actually  
24 take pay cuts to be able to work on this issue.

25                   But we do, you know, face -- soon will be facing  
26 retirement of a large number of our employees.

27                   And also, I would note that, again, because of  
28 the climate issue, one of our top people at the Air Resources



1 Board has actually postponed, voluntarily postponed, his  
2 retirement in order to work on the issue.

3 CHAIRMAN PERATA: You made him an offer he  
4 couldn't refuse. That's good.

5 Could you talk a little bit about, it's a great  
6 real life example, the pay disparities between scientists and  
7 doctors and engineers as classifications?

8 MS. ADAMS: You know, I mentioned that DPA is  
9 supportive of the need to improve compensation for my  
10 scientists.

11 I would, however -- I'm concerned about  
12 discussing any details about parity because I would not want to  
13 disadvantage any group in future negotiations because this is  
14 all done through collective bargaining.

15 CHAIRMAN PERATA: How long does it take State  
16 Personnel to tease something up, stipulating to the fact that  
17 it's all collective bargaining? But it's got to get to a point.  
18 They've got to do something to get it to a point.

19 MS. ADAMS: I believe a number of my bargaining  
20 units just went through collective bargaining.

21 But Senator, I'm a little bit at a disadvantage  
22 because almost my entire career has been exempt from civil  
23 service, and more recently running a large organization of civil  
24 servants has been quite an eye opener for me.

25 CHAIRMAN PERATA: Is this a plaintive plea to be  
26 a civil servant?

27 [Laughter.]

28 MS. ADAMS: I have never been -- I take that

1 back. I was clerk at DMV in 1967.

2 [Laughter.]

3 CHAIRMAN PERATA: Well, being aware of it is one  
4 thing. Trying to get the agencies, and maybe the task force --  
5 I'm not a big fan of task forces -- but if you've got one, maybe  
6 one of the things that come out of it is a shortened distance  
7 between when you cite a problem and when you solve the problem.

8 MS. ADAMS: Absolutely.

9 CHAIRMAN PERATA: We seem to struggle. And so  
10 much of it seems to be caught up in the personnel world.

11 MS. ADAMS: So we're very happy that we are  
12 participating. I have two or three of my departments that are  
13 actively involved.

14 CHAIRMAN PERATA: Good.

15 I'd like you to get back on this whole thing.  
16 I'd like to have you get back to us, to the Rules Committee,  
17 about what we're doing in an area. It's pretty off obvious in  
18 what the Governor's been doing, and what the Legislature's been  
19 doing, in support of climate change. And as you said yourself,  
20 you may be able to attract people who have a rare opportunity to  
21 participate.

22 But there are a lot of other things that are of  
23 equal importance that are far less media-genic, and they are of  
24 equal importance.

25 So, I'd like it if you'd just give us a report  
26 back at the appropriate time.

27 MS. ADAMS: Okay, be glad to do that.

28 CHAIRMAN PERATA: If it's four years from now,

1 it's going to be inappropriate.

2 I'd like to turn your attention now to water  
3 quality. We confirm all the Water Board members. We've heard  
4 stories, both during testimony and certainly in our committees  
5 and on the Floor about perchlorate contamination, storm runoff,  
6 the prisons that are exceeding waste water capacity, and point  
7 source reduction. They make for a very interesting discussion.  
8 We get to use all these great words that most of us don't know what  
9 they mean.

10 But you do know what they mean, and how would you  
11 assess how we're doing in these areas of water quality?

12 MS. ADAMS: California has a lot of serious water  
13 quality problems that we are addressing. Often it's a matter of  
14 who pays in a lot of these very big issues, such as perchlorate  
15 contamination. The issue is determining responsible parties,  
16 which takes many, many years. So, I do -- we do have a lot of  
17 problems around the state.

18 And I'm actually looking at enforcement across  
19 the board within my agency to see how we're doing on  
20 enforcement. We have some statistics about, you know, some of  
21 my boards and departments may use more civil procedures, and  
22 then don't move forward quickly on collection.

23 So, I'm gathering that data and looking at  
24 standardizing enforcement efforts across the board, some basic  
25 things like sharing of data bases. I'd like to see on the Web,  
26 for example, where any member of the public could go on Cal EPA  
27 Web, and pull up a company name and see what permits they are  
28 required to have from what agency.

1                   So, we still have a lot of work to do to ensure a  
2 fair enforcement mechanism.

3                   CHAIRMAN PERATA: I'm sure you're aware that the  
4 LAO has said we need almost \$200 million more in the current  
5 budget year, or the contemplated budget year, in order to  
6 adequately enforce against the threats that we have.

7                   What's the budget? What are you asking for? Do  
8 you know? I don't.

9                   MS. ADAMS: I don't have those figures.

10                  CHAIRMAN PERATA: It might be interesting to look  
11 and see. I don't know how many PYs that is the equivalent of,  
12 but that's a lot of money.

13                  Are many of these fee driven?

14                  MS. ADAMS: My agency is almost entirely based on  
15 fees.

16                  CHAIRMAN PERATA: I have one of those real life  
17 examples of a mom-and-pop cleaners. I guess cleaners now are  
18 switching over to a new method?

19                  MS. ADAMS: Right.

20                  CHAIRMAN PERATA: Which I'm not sure is any less  
21 toxic, but apparently it does not permeate the groundwater quite  
22 as quickly.

23                  There is a huge -- no pun intended -- reservoir  
24 of contamination under a lot of these places. There is no  
25 mechanism right now to fund the clean-up. It falls to the owner  
26 of the building, who's not insured for it, so effectively  
27 they're out of the game.

28                  I, for one, would be happy to pay another dime on



1 a shirt in order to prevent that from happening.

2 We could all up here very debates over taxes, but  
3 we don't have to have that same debate over fees. So, I would  
4 be really enthusiastic to look at squaring accounts: what the  
5 problems are; what we know we need to be able to fix them; then  
6 what the cost will be.

7 I'm going to pursue that with our Budget  
8 Committee as well.

9 Talk a little bit about the Delta, which is your  
10 primary love and background. There's been a lot of discussion  
11 lately that it's about ready to implode -- I don't know if  
12 deltas implode -- that one of the problems we've addressed  
13 through the bonds by coming up with money for flood protection,  
14 but that's not the sum and substance of the problem.

15 There has even been recently efforts made to  
16 rediscuss and reintroduce the idea of a Peripheral Canal which,  
17 for many Northern Californians, is unheard of. We thought that  
18 a stake was driven in its heart before. But people would argue  
19 that there is some science now that suggests that it might be  
20 good thing. So, there's no paucity of people wringing their  
21 hands.

22 How would you assess what we're doing, and where  
23 would you see us going immediately on the problem?

24 MS. ADAMS: Senator, fortunately for me, I'm not  
25 the water supply person any more, but I do oversee --

26 CHAIRMAN PERATA: But you have friends.

27 MS. ADAMS: -- I do oversee the State Water  
28 Board, and our main goal is to ensure water quality in the Delta

1 and to ensure that standards are met.

2 So, things that I'm very interested in working on  
3 are things like the San Joaquin River settlement, to restore  
4 flows on the San Joaquin River. Anything we can do to help the  
5 water quality in the Delta is what I will be pursuing.

6 I am a member of the Delta Vision. It's -- Mike  
7 Chrisman is the Chair of looking at the overall plan in the  
8 Delta, and I am a member, and those efforts are underway.

9 CHAIRMAN PERATA: Are you happy with our Water  
10 Board system?

11 MS. ADAMS: Well, I --

12 [Laughter.]

13 CHAIRMAN PERATA: Let me put it to you this way,  
14 stupid question.

15 Better question, how would you improve it?  
16 Assuming that all the appointments are made, which is good for  
17 openers.

18 MS. ADAMS: Yeah. It's -- I served for five  
19 months on the Central Valley Regional Board, and it was quite an  
20 eye opener for me. I was particularly impressed that people  
21 were willing to take on such a tough job, a really very  
22 thankless job, and actually took time out of their personal  
23 businesses.

24 At that time I was working at home by the hour  
25 for a private company, so it cost me money to do this job for  
26 the regional board.

27 It was very interesting. It was fascinating. I  
28 learned a lot about -- about additional problems in the Valley.

1 I know the Valley very well, but I learned a whole lot about  
2 some of the problems of addressing water quality.

3 I think something like the Air Resources Board,  
4 where people actually get part-time pay, would maybe make it  
5 worth their while.

6 Again, I'm very, very impressed when people take  
7 time from their businesses to actually serve on the boards.  
8 It's a thankless job, you know. No good deed goes unpunished,  
9 because no matter what we did, we were criticized.

10 We levied the biggest fine in the history of the  
11 state, and we were criticized for it because it wasn't enough.

12 CHAIRMAN PERATA: You've been in a legislative  
13 office, and you've been on both sides of this thing.

14 A lot of times, our designing systems is not the  
15 best idea that people have thought the Legislature or what we're  
16 really good at.

17 Given you're in a very if not unique, it  
18 certainly is an unusual position, it would be very helpful to  
19 have some thoughts. And I always tell people, you put it in a  
20 blind envelope and throw it under the door. You don't have to  
21 say anything about it. Write with your left hand or something.  
22 But I would be interested in knowing --

23 MS. ADAMS: I probably already said much.

24 [Laughter.]

25 CHAIRMAN PERATA: Now that you're compromised,  
26 and I see the press writing feverishly.

27 MS. ADAMS: Senator, I also want to say that our  
28 new Chairwoman of the State Water Board is spending a lot of

1 time with the regional boards on this very topic. So, we'll be  
2 glad to report back to you.

3 CHAIRMAN PERATA: I think something needs to be  
4 done structurally; something short of, you know, C-4.

5 MS. ADAMS: A nine-member board, that's a big  
6 board.

7 But whatever we do, we should not do anything to  
8 make it more difficult to recruit people.

9 CHAIRMAN PERATA: Right, point well taken.

10 If you would remit to us something in writing, a  
11 plan about what you have available today, and how you intend to  
12 use them for water quality programs, and how particularly you're  
13 looking at the enforcement issue.

14 I don't want to play too heavy hand there, but I  
15 don't think it's possible, if we're 20 percent of a billion shy  
16 of being adequate, it seems to me that we can write all the laws  
17 in the world, and run around and tout them, but no enforcement,  
18 no benefit.

19 So, I'd like to see something back on that.

20 MS. ADAMS: Okay.

21 CHAIRMAN PERATA: Are you about six or eight  
22 months away from having an assistant? Your Personnel Board --

23 MS. ADAMS: No, I have an assistant.

24 CHAIRMAN PERATA: You got an assistant.

25 MS. ADAMS: Yes.

26 CHAIRMAN PERATA: I thought you were struggling  
27 to find somebody.

28 MS. ADAMS: No, that was a different agency I was



1 talking about.

2 CHAIRMAN PERATA: Climate change. This is  
3 something that the Governor's made famous in California. I  
4 guess he would say he made it famous, and Al Gore would say he  
5 made it famous worldwide.

6 There has been some kind of a confluence here  
7 going on where climate change is now no longer a debate. It's  
8 been shifted to how we're going to do what we know needs to be  
9 done.

10 And I've been a supporter of AB 32, but there are  
11 a number of steps that the law requires before we get to market  
12 mechanisms and those things. What I'm particularly interested  
13 in are laws that have been passed, and then I'm familiar with  
14 one where we have now made it illegal for a utility to basically  
15 contract for dirty coal-generated electricity.

16 There is a lot, and I've talked to you about this  
17 privately. We are at a point right now in this state where we  
18 can virtually clean up every diesel engine spewing carbon  
19 emissions to a zero tolerance because the technology's there,  
20 and it's being manufactured in the State of California. We have  
21 a billion dollars that we've invested. Actually, we've invested  
22 a \$1,100,000,000 in the recent bonds for air quality, targeted  
23 generally to diesel emissions.

24 So, my point is that there's a lot to do in the  
25 area of climate, but it is much more than simply saying, "Here's  
26 what we did. We're going to lead the world."

27 It seems to me that we could reduce childhood  
28 asthma, and you're from the Valley so that's one of the major

1 areas, that and around ports. We have the technology, and we  
2 have the capital now to invest in reducing childhood asthma.

3 The question is whether or not we're going to,  
4 through the agency, spend as much time and energy doing that,  
5 and making sure that the Inland Empire and the Central Valley is  
6 a beneficiary through the agency as all the bally-hoo that we're  
7 giving the rest of this.

8 And all climate all the time is fine with me, as  
9 long as we're doing -- you know, you can't always swing for the  
10 fences. We have get a few singles and doubles here.

11 So, I'm going to look particularly to you to help  
12 us make sure that the less glamorous but very efficient with  
13 things that we do are done.

14 MS. ADAMS: Absolutely.

15 CHAIRMAN PERATA: I think you are an ideal person  
16 to be able guide us in that direction. And I know in my heart  
17 that you want to do it.

18 MS. ADAMS: Absolutely.

19 CHAIRMAN PERATA: And the ARB is getting you guys  
20 pushing hard on that. It's sort of a practical thing I hope  
21 should engage.

22 We have a technology for about \$13,000-14,000 to  
23 apply a retrofit device on a diesel engine to clean up the air.  
24 There are people running around that want to talk about buying  
25 new trucks altogether for \$90,000. There are other people that  
26 want to come in and sell liquid natural gas vehicles.

27 So, there's going to be a lot of debate over,  
28 look at what we can do, as opposed to what gets us to where we

1 need to go with the science available as fast as we can.

2 And that's a job for someone like you.

3 MS. ADAMS: Thank you.

4 CHAIRMAN PERATA: Since I didn't want the job,  
5 I'm glad you took it. I took the other thankless job.

6 [Laughter.]

7 CHAIRMAN PERATA: I'm open to other questions.  
8 I'm always sticking up for the Inland Empire, and I'm always  
9 thinking about the Inland Empire. Aren't you impressed?

10 [Laughter.]

11 SENATOR DUTTON: I was impressed.

12 CHAIRMAN PERATA: Alex.

13 SENATOR PADILLA: If I may, I wanted to just  
14 revisit a couple of issues that you and I had a chance to  
15 discuss privately in my office just a few days ago, beginning  
16 with in this post-SB 1368 and AB 32 environment that we're in  
17 now, a specific question on the relationship between some of the  
18 state agencies, ARB maybe in particular, and local AQMDs in  
19 terms of who's responsible for what, and what new tools, and the  
20 bounds of responsibility may be ideal as we move forward?

21 MS. ADAMS: Yes, Senator.

22 I'd be happy to meet directly with South Coast  
23 AQMD, because I have not yet had the opportunity to do that.  
24 But I know that there are a lot of discussions ongoing between  
25 the Air Board and the local districts about what role they might  
26 play in AB 32, perhaps because they gather data, participating  
27 in the inventory.

28 I know there have been efforts by the districts

1 to take over, perhaps, mobile source. I feel pretty strongly  
2 that that's a role of a statewide entity.

3 But I'd be glad to look into that more and talk  
4 to the district.

5 SENATOR PADILLA: I'd appreciate that, and the  
6 spirit here is how do we make optimal use of all arms of  
7 government, not just the state level, but federal where it may  
8 be appropriate, and certainly local entities, in achieving the  
9 goals that we're all trying to achieve. And whether it's  
10 specific jurisdictions or areas of rule making and rule setting,  
11 that's what we're wondering here.

12 Another area that I mentioned, just south of the  
13 Riverside-Palm Springs area, the Imperial Valley. I had a  
14 chance to visit over the course of this last weekend, and I  
15 mentioned to you, both my observations and feedback as it  
16 pertains to the Salton Sea and the New River.

17 I'm wondering if you might have any more  
18 information?

19 MS. ADAMS: I did, coincidentally, receive a  
20 letter on that from one of the environmental justice coalitions,  
21 and I have asked to meet with them. They raised some legitimate  
22 issues. If we're going to have hearings in that area, we need  
23 to ensure that the locals get to participate, perhaps through  
24 translators.

25 I do have a Border Unit that I elevated from the  
26 State Water Board.

27 SENATOR PADILLA: Can you describe that just for  
28 the people watching at home?



1 MS. ADAMS: The Border Unit? Yes, I actually am  
2 on an international organization called Border 2012, and we meet  
3 regularly with my counterpart in Baja California, with U.S. EPA,  
4 and their counterparts in Mexican federal government.

5 And recently I was fortunate to be able to have  
6 an aerial tour of the whole border region and see first-hand  
7 some of the problems on both sides: agricultural burning in the  
8 Imperial Valley on one side, and illegal brick kilns is a huge  
9 problem on the other side of the border.

10 I'm very familiar with the water quality problems  
11 down there. We have huge problems to tackle in that area. U.S.  
12 EPA --

13 CHAIRMAN PERATA: It's very emotional for you;  
14 isn't it? I can see that you're very choked up.

15 MS. ADAMS: I need some water.

16 CHAIRMAN PERATA: Help yourself.

17 MS. ADAMS: U.S. EPA has just very small amounts  
18 of money to spend on those issues, and so I'm looking for ways  
19 where my agencies might absorb some of the costs of those  
20 programs, because I have teams of people in different capacities  
21 in the border region, where perhaps they could do some of the  
22 work, and therefore allow some of the federal money to be spread  
23 further.

24 SENATOR PADILLA: I appreciate expanding on that,  
25 and it's another area that I look forward to working with you  
26 on.

27 There is a specific clean-up site, talking about  
28 water, in my district that I shared with you. Just for purposes

1 of example, Price-Pfister site in Poicoma. The Regional Water  
2 Quality Control Board is the lead agency, but it involves DTSC  
3 and others in terms of taking a brownfields site, ensuring a  
4 proper clean-up plan for purposes of prepping a site for  
5 redevelopment and revitalization.

6 Any thoughts on how we, generally speaking,  
7 streamline the process and make things quicker and more  
8 effective and efficient?

9 MS. ADAMS: One thing I need to do is ensure that  
10 my two departments are indeed coordinating.

11 And the Price-Pfister issue is actually in front  
12 of the regional board. So, I've asked the executive officer to  
13 call you directly, because I know there's been some failure to  
14 communicate.

15 But I will spend more time on that.

16 SENATOR PADILLA: I recognize this is one  
17 specific site, but Senator Cedillo and many others around the  
18 state have similar issues --

19 MS. ADAMS: Right, absolutely.

20 SENATOR PADILLA: -- with similar sites.

21 Moving over to a question about recycling.  
22 Senator Sher several years ago authored AB 1989, which took our  
23 diversion of waste rates from landfills from what used to be,  
24 once upon a time, 10 percent to 25, and ultimately to 50. The  
25 state's celebrating that we've actually hit that mark on a  
26 statewide basis, with most local jurisdictions at or above that  
27 rate.

28 Do you see any reason why we shouldn't further

1       elevate that diversion rate from 50 to, say, 75?

2               MS. ADAMS: Absolutely. I think we can do more.

3               I can't say without more analysis whether the 70  
4       percent by 2012 is the right number and right date, but we'll be  
5       happy to work with you, because I feel very strongly that we  
6       need to set additional goals.

7               SENATOR PADILLA: And as part of achieving that,  
8       there's been conversations about whether we reorganize state  
9       staff and agencies, or at least work better collaboratively  
10      towards achieving that, specifically the Department of  
11      Conservation, their staff and resources, Waste Management Board,  
12      their staff and resources.

13              Any ideas?

14              MS. ADAMS: We'll be glad -- I'll be glad to put  
15      all those folks together. I work very closely with Secretary  
16      Chrisman, and of course, the Department of Conservation is under  
17      his jurisdiction. But I'll be glad to work with him and bring  
18      the parties together.

19              SENATOR PADILLA: Okay.

20              Finally, another area sort of outside the direct  
21      departments and agencies that are under your jurisdiction.

22              When it comes to housing, the recent housing bond  
23      does include an element for incentives and rewards for  
24      sustainable building because of the environmental benefits of  
25      that, as we're building more housing and trying to keep up with  
26      the need in California.

27              It would seem to me that as we approach those  
28      policy guidelines, we keep in mind our goals for reducing

1 greenhouse gas emissions, conserving energy, conserving water,  
2 dealing with stormwater management.

3 How can we help improve coordination and  
4 collaboration between what's under your purview and what is  
5 under the purview of Secretary Jacobs, whom this Committee  
6 recently supported in her confirmation?

7 MS. ADAMS: Through my efforts in the Climate  
8 Action Team, we're going to be looking, and that's a team made  
9 up of Cabinet Secretaries. And we'll be looking at this issue  
10 of infill development, and smart growth.

11 And I think one of the key roles that my agency  
12 can play is, my Director of Toxics is -- has a very concerted  
13 effort underway to speed up the permitting and clean-up of  
14 brownfields. And I think that's a big part of the solution.  
15 We're actively pursuing that. She's got all kinds of great  
16 ideas apparently.

17 Currently it takes -- we were horrified to learn  
18 that it takes sometimes two years for an owner of the property  
19 to even find out whether their permit is complete. So, our goal  
20 is to get that down to 30 days.

21 So, we have been doing a bad job, and we're going  
22 to be doing a much better job in moving on those brownfield  
23 sites.

24 SENATOR PADILLA: I particularly wanted to raise  
25 the housing question with you today because they're both  
26 laudable goals in the State of California: how to create more  
27 housing because we're a growing population; how to improve the  
28 environment because it's the right thing to do. And far too



1 often, these two separate issues are considered or discussed as  
2 conflicting agendas, when they're really not. And we can't  
3 afford for them to be.

4 So even, thought they're in separate areas of  
5 state government, I'm glad to hear that you have, through the  
6 Climate Action Team, that's on the agenda.

7 MS. ADAMS: Absolutely.

8 SENATOR PADILLA: And whether it's specific  
9 building practices, or building materials, sustainable design  
10 practices, or via the planning process, how we plan better so  
11 that transportation, you know, mobile source emissions, the  
12 people on the roads isn't as much of an issue, those sorts of  
13 things.

14 I'm glad it's on both Secretary Jabobs' radar  
15 scope and yours.

16 MS. ADAMS: Yeah, and we have a new Secretary of  
17 Business, Transportation and Housing who took the oath of office  
18 at noon today. So, I will be soon discussing this issue with  
19 him.

20 SENATOR PADILLA: Thank you very much. And I,  
21 too, am glad you're on the job.

22 MS. ADAMS: Thank you.

23 CHAIRMAN PERATA: Senator Dutton.

24 SENATOR DUTTON: Just a couple of minor  
25 questions.

26 California currently, the military is one of the  
27 largest employers we have in the state. Of course, they have  
28 some unique issues and problems that come up regarding areas

1 that your agency's going to be dealing with.

2 Would you share with me your thoughts about how  
3 best to deal with some of the military's unique issues?

4 MS. ADAMS: We do, obviously, recognize that the  
5 military is a significant and important presence in California.  
6 And we have been hosting regular meetings with the military to  
7 talk about some of the issues.

8 My method of operation is always collaborative  
9 rather than beat them up. I'd rather sit down and talk to them  
10 about some of the problems, and work collaboratively on a  
11 resolution.

12 SENATOR DUTTON: Is there anything that in your  
13 preliminary meetings, something that maybe we should be aware  
14 of, that we need to maybe be thinking about here in the near  
15 future, particularly with regards to AB 32, and how we're going  
16 to be implementing that? Any special challenges that you can  
17 think of off the top of your head?

18 MS. ADAMS: I'd have to think about that,  
19 Senator, and get back to you.

20 SENATOR DUTTON: The other thing, and you can  
21 kind of get back to me on this one, too, it was brought to my  
22 attention that, speaking of coal burning power plants, that  
23 apparently DWR, they apparently contract with an agency out of  
24 Nevada that is a coal burner.

25 I'm just curious if that's true? And if it is,  
26 is that something where we're going to have to develop a plan to  
27 wean ourselves away from?

28 MS. ADAMS: I've heard that's true also. And I

1 will be -- I had some conversations with Secretary Chrisman this  
2 morning about the forestry issue that we talked about, but that  
3 will be something that the Climate Action Team will be  
4 scrutinizing with regards to climate.

5 SENATOR DUTTON: Thank you.

6 CHAIRMAN PERATA: Gilbert.

7 SENATOR CEDILLO: We've made tremendous progress  
8 in air quality, biomonitoring, brownfields, border, climate,  
9 cradle-to-cradle, enforcement, environmental justice, greater  
10 pest management, ocean protection, recycling, waste management,  
11 water quality.

12 CHAIRMAN PERATA: She's done nothing for the  
13 drivers licenses, though --

14 [Laughter.]

15 SENATOR CEDILLO: Since you brought it up --

16 [Laughter.]

17 SENATOR CEDILLO: I applaud the Governor for  
18 nominating you, for you being here.

19 I'm glad that even though these policies will  
20 benefit undocumented immigrants in our state, and their citizen  
21 children that we know nonetheless proceed with them, can you  
22 give me your reasons why we should do so?

23 And the second thing, speaking about the drivers  
24 license, and we've had this discussion with the AQMD, giving a  
25 driver's license to two-and-a-half million people will move them  
26 to junk, at least two-and-a-half million, probably closer to  
27 five million, of the most polluting vehicles on the highways.  
28 That's over ten percent of our most polluting vehicles on the

1 highway.

2 I'm not a scientist, but it just seems to me that  
3 that would have a significant impact in terms of emissions. So,  
4 I'm interest in terms of how you think about that in terms of,  
5 we have a real capacity within five years to remove at least 10  
6 percent of the most polluting vehicles that are on our highways?

7 CHAIRMAN PERATA: You're good.

8 [Laughter.]

9 MS. ADAMS: Senator, on the issue of the older  
10 so-called gross polluting vehicles, I think -- and I haven't  
11 discussed this with Secretary Marin but I will be. I think  
12 there can be some improvements to the program under the Bureau  
13 of Auto Repair, because if you pay someone, a low-income person,  
14 \$1500 for their car, that's not going to get them a better car.

15 So, I'd like to pursue things like loan  
16 guarantees, because I personally have guaranteed loans of some  
17 of my low-income family members, and I did that because they  
18 pay, if they had to get their own lean, they would pay 14  
19 percent interest. But if I co-sign, they pay seven.

20 So, we need to assist people in how are they  
21 going to get a better vehicle because they need one. So, that's  
22 something that I'd like to explore.

23 SENATOR CEDILLO: Right, and I think obviously  
24 groups like B of A, and Wells Fargo, private --

25 MS. ADAMS: Absolutely.

26 SENATOR CEDILLO: -- sector partners might be  
27 available to work with us on that.

28 MS. ADAMS: That would be great.



1 CHAIRMAN PERATA: You've got different family  
2 members than I have.

3 [Laughter.]

4 SENATOR CEDILLO: And I.

5 CHAIRMAN PERATA: Senator Ashburn.

6 SENATOR ASHBURN: I want to thank you for your  
7 responsiveness with Senator Aanestad on the observation that he  
8 made about a symposium on global warming, and the posting on a  
9 government-sponsored Web site, which is overseen by your agency,  
10 highlighting just three organizations and not others who were  
11 participants or reflective of a broader range of ideas with  
12 respect to the global warming issue.

13 But it does point out the issue of who's in  
14 charge. How does something like this happen, and what steps  
15 would you take to make sure that a mistake like that isn't made  
16 again?

17 MS. ADAMS: Yes, sir. Actually, it was somewhat  
18 contrary to our policy, and that's a policy that the Air Board  
19 should have been aware of, but they are now. And I will  
20 reiterate that for all my VDOs.

21 SENATOR ASHBURN: Also, I wanted to highlight a  
22 conversation that we've had about the role of trees in being  
23 part of the solution to carbon dioxide emissions, and the fact  
24 that for some period of time, it seems to be the policy of the  
25 state and federal government to discourage the harvesting of  
26 trees. You know, sort of an embracing of the old growth as very  
27 desirable.

28 Now it turns out when you apply the science to

1 the natural processes that are involved in the life cycle of a  
2 tree, that for the first years, first many years of the tree,  
3 the carbon dioxide is absorbed into the tree, which is  
4 beneficial to the environment. But then, after a period of  
5 time, the tree actually becomes an emitter of carbon dioxide.

6 And I just wanted to see what your sensitivities  
7 are with respect to taking a new look at the role of trees, and  
8 whether harvesting, thinning, fire protection, and all these  
9 other matters might be part of the solution on our concern about  
10 the warming of the earth's temperature?

11 MS. ADAMS: Yes, Senator. Thank you.

12 There is a huge amount of interest. I think  
13 forestry can play a very important role in air quality and  
14 climate.

15 I'm not a scientist, so I can't say for sure at  
16 what point trees absorb more CO2 or absorb less CO2, but we do  
17 have scientists that know that.

18 And I have had conversations with Secretary  
19 Chrisman, because Forestry is under his jurisdiction, but he is  
20 a member of the Climate Action Team, and there's interest  
21 across the board on this issue.

22 SENATOR ASHBURN: I would appreciate especially  
23 your following up on that, because I think the science with  
24 respect to the life cycle of trees, and the absorption of carbon  
25 dioxide, and the emissions from vegetation are well documented.  
26 I don't think those would be in dispute.

27 Our concern about global climate change might  
28 well be a cause to take a different look at some of the policies

1 that have been in place in the past.

2 I'm glad that during our conversation today  
3 you've highlighted some of the good work that is going on within  
4 the departments that are under your agency.

5 And in particular I would highlight in Toxics and  
6 on the Water Board, where the directors that are there and have  
7 been confirmed by this Committee and by the Senate are, number  
8 one, inventorying that is which is before them in their  
9 jurisdiction. And secondly, assigning some timelines in the way  
10 in which we go about issuing permits, reviewing projects, taking  
11 state action, clean-up, brownfields, and other toxic  
12 contaminated sites.

13 The reality is that it is shocking that so much  
14 public resource and so many public workers are devoted to tasks  
15 that are related to imminent health threats to the public, and  
16 yet literally years are involved in paperwork processing, and  
17 not a whole lot in getting the job done.

18 Now, I think you're taking on an ominous  
19 responsibility, but it seems to me that the most important thing  
20 you could do is encourage that kind of inventory of what we're  
21 doing, how long it takes to do it, and how we could change the  
22 processes so that we get the job done. And none of that has  
23 anything to do with policy so much as it does with enforcing the  
24 law and regulation that's on the books today.

25 And I'd like to know how you view that in terms  
26 of the responsibilities that you have?

27 MS. ADAMS: Absolutely.

28 If I could clone Director Gorson and what she's

1 doing at the TSC to actually measure improvements, I would do  
2 that.

3 I have a tremendous team of chairs and directors  
4 at Cal EPA, and we're going to be looking at that issue of how  
5 to measure improvements, because we're not doing a good job of  
6 measuring.

7 And even some basic things we're looking at.  
8 Like apparently, not all of our enforcement people go through  
9 voluntary enforcement training, so some basic training for those  
10 involved in enforcement. Even looking at permits to make sure  
11 are they understandable. And if they're not understandable,  
12 they're not enforceable.

13 SENATOR ASHBURN: We tend to have a stacking  
14 process. We stack one step, and then the next step, and the  
15 next step, instead of assembling a team effort, and each of the  
16 aspects of a project addressed simultaneously so that we can get  
17 quicker to a solution. We save money. We save time. And in  
18 some of these instances, we are improving the health of the  
19 public, which is why we undergo the exercise in the first place.

20 I think you're going to have to be tougher than  
21 nails in this. I think that's the biggest aspect and the  
22 biggest challenge that I think you face.

23 I'm always interested in what is revealed at  
24 Rules Committee hearing. Senator Perata mentioned changing the  
25 Water Board structure in the state.

26 I think that's similar to the conversation you  
27 and I had yesterday, is that we have unequal treatment of the  
28 public in the various regional water quality boards in



1 California. We don't have equal protection under the law. If  
2 you're under one water board, you might be treated in a  
3 different manner than if you're under a different water board  
4 jurisdiction in the State. That's unacceptable.

5 So, I think we ought to talk about reform. I  
6 would encourage you, in your new responsibility, to take a look  
7 at the ways in which we could streamline, improve, and make  
8 consistent and clear the way in which we're dealing with water  
9 quality issues, water supply issues, and the other aspects of  
10 water.

11 Similarly with the air districts. You do not  
12 have equal treatment for the public and for those regulated  
13 under the air quality districts in the state. That's  
14 unacceptable.

15 In so many ways we've established all these  
16 multiple layers of governance, and you get so complicated in the  
17 governance structure that we lose sight of what it was we were  
18 trying to solve in the first place.

19 If you could use your extensive experience in  
20 helping the Legislature in your former role, in applying that  
21 experience to clarity in the processes that are in place today,  
22 I think you will make a remarkable impact in your new  
23 responsibility.

24 MS. ADAMS: We are looking -- the State Water  
25 Board is discussing with the regional boards areas where there  
26 are common problems and issues, and the idea of the State Board  
27 giving some policy direction to the regional boards so that  
28 everyone does have equal treatment.

1                   Some of the regions have -- you know, there are  
2 different problems in different regions, but there are also  
3 common problems.

4                   SENATOR ASHBURN: And let's just face it, when  
5 you have volunteer members of the regional water boards who have  
6 other jobs and interests, and they serve in this public service  
7 capacity -- and I think these are good people, sincere people,  
8 well meaning people -- the staff runs it. And some of these  
9 staffs are out of control. And there's not coherent policy  
10 direction.

11                   So, you're the boss. We've got to get control of  
12 this thing.

13                   CHAIRMAN PERATA: And we know about staff is out  
14 of control.

15                   [Laughter.]

16                   CHAIRMAN PERATA: Now, if you have any question  
17 about problems and how to solve them, if you look behind you  
18 there are lots of lobbyists here who would be glad to help you.

19                   Nothing further from the dais, we'd ask anyone  
20 interested in coming up and sucking up to the Secretary.

21                   [Laughter.]

22                   CHAIRMAN PERATA: Just your name, rank and  
23 serial number will be just fine.

24                   MS. NOTTHOFF: Ann Notthoff with the Natural  
25 Resources Defense Council.

26                   In one sentence, I've been reading Doris Kern  
27 Goodwin's most recent book about the Cabinet in Abraham  
28 Lincoln's day. And she talks about the valley of a diverse,

1 robust Cabinet.

2 And from what I know of working with Linda Adams  
3 over the years, she's going to be a very spirited member of the  
4 Cabinet, and she's a real fighter for the environment. We're  
5 counting on her to do that.

6 We support her confirmation.

7 CHAIRMAN PERATA: Thank you.

8 Gee, people here I haven't seen in years coming  
9 up to talk. This is great.

10 MR. MAGAVERN: Mr. Chairman, Committee Members,  
11 Bill Magavern with Sierra Club California, happy to support the  
12 confirmation of Secretary Adams.

13 We've worked with her in several capacities over  
14 the years, and we think she's the right person to continue the  
15 Cal EPA tradition of advancing environmental protection in a  
16 bipartisan manner, or a post-partisan, either one is fine with  
17 me. Thank you.

18 CHAIRMAN PERATA: Thank you.

19 MS. DOUGLAS: Mr. Chairman, Karen Douglas. I'm  
20 the California Legislative Director for Environmental Defense,  
21 and here in strong support.

22 Thank you.

23 CHAIRMAN PERATA: Thank you.

24 MS. BROWNSEY: Mr. Chairman, Members, Donne  
25 Brownsey, representing the Breast Cancer Fund and Commonweal.  
26 And we're strongly in support of Ms. Adams' confirmation.

27 We've been working with her on the biomonitoring  
28 program, and with herself and her senior staff, and we've had a

1 great collaborative relationship. We look forward to the  
2 implementation of this program.

3 Thank you.

4 CHAIRMAN PERATA: Thank you.

5 MR. STODDARD: Mr. Chairman and Members, Kent  
6 Stoddard on behalf of Waste Management.

7 Also a very long standing colleague. We started  
8 our careers many, many years ago in the same location.

9 We are very pleased to support the confirmation.  
10 I don't think we've had a Secretary that comes to this position  
11 with the depth of experience in all Cal EPA programs that Linda  
12 brings. And we're very happy that she was enticed out of  
13 retirement to take the toughest environmental regulatory job in  
14 the whole country.

15 CHAIRMAN PERATA: Thank you.

16 MR. EPSTEIN: Mr. Chairman, my name is Bob  
17 Epstein, with Environmental Entrepreneurs.

18 We're happy to support the nomination of Linda  
19 Adams for Secretary. I've worked with Linda on two major bills,  
20 AB 1493, the first bill Pavley bill, as well as recently AB 32.  
21 Her guidance and trust and support and friendship is important  
22 to me.

23 I just want to say I look forward to rafting down  
24 the restored San Joaquin River with Linda in the near future.

25 [Laughter.]

26 CHAIRMAN PERATA: Thank you.

27 MR. KALB: Senators, Dan Kalb, representing the  
28 Union of Concerned Scientists.



1 Obviously, Cabinet level positions require  
2 knowledgeable and committed leaders. We're very confident that  
3 Ms. Adams is one of those leaders and will do a fantastic job --  
4 fantastic job, there's that word fantastic -- as head of Cal  
5 EPA.

6 We strongly support her confirmation. Thank you.

7 CHAIRMAN PERATA: Thank you.

8 MS. VENTURINI: Rina Venturini on behalf of the  
9 CALPINE Corporation.

10 We also encourage your support of Linda's  
11 confirmation.

12 CHAIRMAN PERATA: Thank you.

13 MR. McFETRIDGE: Mr. Chairman and Members, Duncan  
14 McFetridge on behalf of the California Renewable Fuels  
15 Partnership in strong support of the Secretary's confirmation.

16 Thank you.

17 CHAIRMAN PERATA: Thank you.

18 MR. JACOBSON: Senators, Dan Jacobson with  
19 Environment California, strong support. Thanks.

20 CHAIRMAN PERATA: Thank you.

21 MR. KANOUSE: Senator Perata, Committee Members,  
22 Randy Kanouse, East Bay Municipal Utility District, in strong  
23 support of Secretary Adams.

24 MS. COLE: Kathy Cole with the Metropolitan  
25 Water District of Southern California in strong support of the  
26 Secretary's confirmation.

27 CHAIRMAN PERATA: Thank you.

28 It's great working with pros. This is good.

1 MR. GUALCO: Mr. Chairman and Members, Jack  
2 Gualco on behalf of our agricultural business and local  
3 government clients in support of Secretary Adams' confirmation.

4 And as one who has worked with her from nearly  
5 the first day -- I won't claim to be at DMV with you, Linda --  
6 but you have always been rational, never quick to judgment. You  
7 do your due diligence.

8 And one great example of where she stepped  
9 forward and exercised great leadership was in getting all the  
10 parties on the Colorado River to agree to the Quantification  
11 Settlement Agreement when she worked for Gray Davis. And that  
12 alone is worthy of her confirmation.

13 Thank you, Mr. Chairman.

14 CHAIRMAN PERATA: Well put. Thank you.

15 MR. HIME: Mr. Chairman, Rex Hime, California  
16 Business Properties Association, in support of Linda Adams as  
17 Secretary. The state could have no better public servant.

18 Thank you very much.

19 MR. DiMARE: Mr. Chairman and Members, Dominic  
20 DiMare with the California Chamber of Commerce.

21 I'm here in support of Ms. Adams as Secretary of  
22 the Environment.

23 CHAIRMAN PERATA: I'm e-mailing the paper right  
24 now.

25 [Laughter.]

26 MR. DiMARE: I have worked my entire career with  
27 Ms. Adams being present, either in the Legislature, or in the  
28 administration, or in her brief hiatus with the private sector.

1 I consider her to be a bit of a mentor and someone that has been  
2 always very respectful of staff and Members alike, and all come  
3 to her.

4 It sounds like the DMV probably had a child labor  
5 issue in the '60s.

6 [Laughter.]

7 CHAIRMAN PERATA: Exactly.

8 MR. DiMARE: We very much support her and look  
9 forward to working with her.

10 CHAIRMAN PERATA: You charming devil, you.

11 MR. WETCH: Scott Wetch on behalf of the  
12 California State Pipe Trades Council and the State Association  
13 of Electrical Workers, and the Western States Council of  
14 Sheetmetal Workers, here to support the confirmation up until  
15 the point where I found out that you were Dom DiMare's mentor.  
16 Now we'll have to rethink our position.

17 [Laughter.]

18 MR. WETCH: Nonetheless, we're here in support.  
19 Thank you.

20 CHAIRMAN PERATA: Thank you.

21 MR. CARMICHAEL: Good afternoon, Members of the  
22 Committee. Tim Carmichael. I'm the President of Coalition for  
23 Clean Air.

24 Our board and staff had years -- have had the  
25 opportunity for years to work with Secretary Adams in different  
26 capacities. We're pleased to be here in support of her  
27 confirmation.

28 Thank you.

1 CHAIRMAN PERATA: Thank you.

2 MR. CRABB: Good afternoon. Dr. Charley Crabb.  
3 I'm the Government Affairs Director for the California Farm  
4 Bureau.

5 And we're here to support Linda Adam' nomination  
6 for Cal EPA. We find her very open and very willing to listen.

7 Thank you.

8 CHAIRMAN PERATA: Thank you.

9 MR. WHITE: Good afternoon, Mr. Chair and  
10 Members. Brian White with the California Forestry Association.

11 We too also support Ms. Adams' confirmation.

12 I've had the opportunity to work with her while I  
13 was in the administration. Excellent choice for this position,  
14 so we support her.

15 CHAIRMAN PERATA: Thank you.

16 MS. HOLMES GEN: And I'm Bonnie Holmes Gen with  
17 the American Lung Association of California.

18 We're also very pleased to support the  
19 confirmation of Secretary Adams. And we are looking forward to  
20 continue working with her on the important air quality and  
21 global warming issues that face our state.

22 CHAIRMAN PERATA: Thank you.

23 MR. SMUTNY-JONES: Senators, Jan Smutny-Jones,  
24 Executive Director of the California Independent Energy  
25 Producers Association.

26 And we wholeheartedly support the confirmation of  
27 Ms. Adams. We think she's got the leadership skills and  
28 balance. We've found her to be a very, very thoughtful person



1 on issues that we brought before her. So, we'd urge you to  
2 confirm her.

3 Thank you.

4 CHAIRMAN PERATA: Thank you.

5 MR. DAVIS: Thank you, Mr. Chair and Members.  
6 I'm Ron Davis with the Association of California Water Agencies.

7 It's been my pleasure to work with Ms. Adams for  
8 probably more years than she would like me to admit in a public  
9 hearing. Always found her to be --

10 CHAIRMAN PERATA: She looks a whole lot better.

11 [Laughter.]

12 MR. DAVIS: The obvious.

13 CHAIRMAN PERATA: I'm good at stating the  
14 obvious.

15 MR. DAVIS: Yeah, I won't argue with you there,  
16 Senator. I think you hit it right on the head there.

17 My experience with Linda over those years, or  
18 Secretary Adams over those years, has been a very positive one.  
19 I find her to be highly professional, great integrity. She has  
20 this terrific ability to bring disparate groups together and  
21 come up with a good compromise solution. And I think those are  
22 all skills and abilities that will work well for her as  
23 Secretary.

24 I could not more readily urge your Yes vote for  
25 her nomination.

26 CHAIRMAN PERATA: Thank you.

27 MR. WHITE: Mr. Chair and Members, John White  
28 with the Center for Energy Efficiency Renewal Technology.

1                   We strongly support Secretary Adams'  
2       confirmation. I've had the pleasure of knowing and working with  
3       her throughout her career, and she knows both branches of  
4       government, and the importance of the legislative process, and  
5       also inside the Governor's office. And has the experience of  
6       making tough decisions, working with different constituencies.  
7       She's the only one I know that's both an honorary Water Buffalo  
8       and an award winning enviro.

9                   So, we look forward to working with her, and  
10      thank you for the questions that you also asked.

11                  MR. RAYMER: Thank you. I'm Bob Raymer,  
12      Technical Director with the California Building Industry  
13      Association.

14                  I've had the honor of working with her staff on a  
15      great many issues related to new homes, and look forward to her  
16      confirmation.

17                  Thank you.

18                  CHAIRMAN PERATA: Anyone in opposition? Seeing  
19      none.

20                  I've said this once before, I believe, that most  
21      people have to be dead to hear that many nice things said about  
22      them.

23                  What's remarkable is how broad the spectrum of  
24      support is. Even for professionals this is quite something.  
25      They happen to agree with us.

26                  I want to say that the Budget Committee will be  
27      following up on a number of these items. I'm sure as you go  
28      before the committees, they'll be happy to serve as shills, so

1 use them liberally.

2 As I mentioned, I just want to restate, I think  
3 that the attention that's been given greenhouse gases, and the  
4 work that we've done in California over the last couple of years  
5 is outstanding.

6 The Speaker and I were invited to testify before  
7 the Senate Public Works and Environment Committee, Barbara  
8 Boxer's committee, last week. I was listening to what other  
9 states are doing, and they're doing some fine work, but we're  
10 peerless in this area.

11 And I was very proud that Alan Lloyd had served  
12 so well, and then you're there now.

13 So, I just want to emphasize that there are a lot  
14 of areas that we've touched on here today that are sort of first  
15 among equals in the minds of most of us.

16 It's a huge responsibility, but there's nobody  
17 better to do it than you.

18 I would like to encourage you to rely upon us as  
19 needed, and as you can, and as you will, to help you in areas  
20 that you need help. And if you can't do everything  
21 administratively, and it needs to be done legislatively, that  
22 would include the budget, then you should let us know.

23 We are in the period of post-partisanship, so  
24 there's no jeopardy here at all.

25 Is the new Appointments Secretary here? I don't  
26 know you, but usually they come up here just to make sure  
27 everything is cool.

28 This is a real testament. Costa used to have to

1 run up here, and Timothy Simon used to have to come running.

2 But they're not here. They got it. This is a lock.

3 Finally, just on a personal note, you have done a  
4 great job with biomonitoring, and the advice, and counsel, and  
5 direction that you've provided. I personally want to thank you.  
6 I appreciate that very much.

7 MS. ADAMS: You're very welcome.

8 CHAIRMAN PERATA: I would take the motion to move  
9 this to the Floor.

10 SENATOR CEDILLO: Move.

11 CHAIRMAN PERATA: I ask for a roll call.

12 SECRETARY WEBB: Cedillo.

13 SENATOR CEDILLO: Aye.

14 SECRETARY WEBB: Cedillo Aye. Dutton.

15 SENATOR DUTTON: Aye.

16 SECRETARY WEBB: Dutton Aye. Padilla.

17 SENATOR PADILLA: Aye.

18 SECRETARY WEBB: Padilla Aye. Ashburn.

19 SENATOR ASHBURN: Aye.

20 SECRETARY WEBB: Ashburn Aye. Perata.

21 CHAIRMAN PERATA: Aye.

22 SECRETARY WEBB: Perata Aye. Five to zero.

23 CHAIRMAN PERATA: Five-zip, congratulations.

24 MS. ADAMS: Thank you.

25 CHAIRMAN PERATA: We're going to take a brief  
26 break for a finger rest.

27 [Thereupon a brief recess

28 was taken.]



1                   SENATOR ASHBURN: Senate Rules Committee will  
2 reconvene.

3                   Before we move to the next item on our agenda,  
4 I'll take this opportunity to introduce Ricardo Sarmiento, who  
5 is Governor Arnold Schwarzenegger's Appointments Secretary, and  
6 has been in that position just a very brief period of time.

7                   So Ricardo, glad to have you here.

8                   MR. SARMIENTO: Thank you very much. I  
9 appreciate it. It's an honor.

10                  SENATOR ASHBURN: Thank you. We're glad that  
11 you're here.

12                  Our next item is Kim R. Blackseth, Member of the  
13 State Building Standards Commission.

14                  Kim, if you'd come forward at this time. This is  
15 your opportunity for an opening comment or two, and then we'll  
16 hear from those who would like to give testimony in support and  
17 those who would offer testimony in opposition.

18                  So, thank you, and glad to have you here.

19                  MR. BLACKSETH: Thank you, Senator, Members of  
20 the Committee.

21                  I'm here today at your request to answer any  
22 questions about my appointment. I've been serving on the  
23 Building Standards Commission about a year now.

24                  We've successfully passed a new building code  
25 last month, ahead of schedule, and I contributed to that process  
26 last year. I'm very proud of that. I look forward to  
27 contributing in the future.

28                  I've a lot of experience in the building

1 industry, building codes. I'm a licensed general contractor.  
2 I'm a third generation in the building industries.

3 I've had a consulting business of my own for  
4 about 15-18 years that now primarily is focused on building code  
5 as it relates to disabled access. I've literally thousands of  
6 clients.

7 I know you've all got letters and my resume, and  
8 I'm not going to bore you with all of that, so I won't.

9 I'm really here at your request to answer any  
10 questions and respond to any issues. So, I'm here.

11 SENATOR ASHBURN: Thank you, sir. We're glad  
12 that you're here.

13 Are there any questions from Senators at this  
14 time? Okay, Senator Padilla.

15 SENATOR PADILLA: Just a couple questions. I  
16 don't think this will be as lengthy as the previous appointee.

17 Having spent sometime on the City of Los Angeles'  
18 Building and Safety Commission before ever running for office,  
19 I have an affinity for these kinds of issues. So, I won't get  
20 into seismic. We've got plenty of history on that, other  
21 building code issues and concerns.

22 In the context of what we've just been discussing  
23 last of the last hour-plus, there's a new arena when it comes to  
24 construction in California. Some people know it as sustainable  
25 building, sustainable design.

26 Just out of curiosity because I'm a new Member  
27 here, as you revisit codes and update the codes on the books,  
28 how are those new technologies, new practices, implemented or

1 incorporated?

2 MR. BLACKSETH: I personally am real committed to  
3 those issues of sustainability, green, universal design. All of  
4 those concepts, I think, that we're looking into.

5 Our focus this year has really been on getting a  
6 model code in place, which we've done. And I'm looking forward  
7 to the next couple of years to be able to modify those codes and  
8 address those types of issues.

9 SENATOR PADILLA: Has incorporation of some of  
10 those principles created any conflict or challenges when it  
11 comes to existing codes or code updates?

12 MR. BLACKSETH: I'm sure there will. I haven't  
13 seen any yet.

14 SENATOR PADILLA: At this point, they're not  
15 necessarily incorporated into our current building code?

16 MR. BLACKSETH: Unless they're in the model code,  
17 that's probably correct. I would let staff speak to that  
18 specifically, but that's my general understanding.

19 SENATOR PADILLA: Does the commission and/or the  
20 staff have a certain timeframe about which they would like to  
21 have done so when it comes to sustainable building?

22 MR. BLACKSETH: I don't know the answer, but I  
23 can certainly get back to you.

24 SENATOR PADILLA: I would appreciate that.

25 MR. BLACKSETH: I'd be glad to do that.

26 SENATOR PADILLA: There are proven technologies,  
27 obviously, changing the way we build in California, not just  
28 because it's the right thing to do to save energy, reuse

1 materials, conserve water, et cetera, but in the context of a  
2 now established framework for reducing greenhouse gas emissions,  
3 and so on --

4 MR. BLACKSETH: Sure.

5 SENATOR PADILLA: -- and so forth. I think it  
6 behooves us to do it sooner rather than later and not wait  
7 another seven years.

8 MR. BLACKSETH: The Executive Director for the  
9 Building Standards Commission is here today. And when I'm done,  
10 I will speak to him, and we will address those concerns for you.

11 SENATOR PADILLA: Okay.

12 Second, I'll go ahead and just give you the  
13 platform, because some people may be commenting or questioning  
14 later, but your involvement in this capacity toward providing  
15 access for persons, regardless of levels of ability to  
16 buildings.

17 MR. BLACKSETH: What is the question?

18 SENATOR PADILLA: The question is, what have you  
19 been involved with --

20 MR. BLACKSETH: My business is primarily designed  
21 to consult with all members of the business community,  
22 architects, building departments, private individuals. You'll  
23 hear from plaintiffs and defendants today that I've consulted  
24 with.

25 I've provided lots of consulting service to  
26 cities, counties, County of Amador, City of Fresno. And that's  
27 what we do. It's what I do 50 hours a week. And I neglect to  
28 bring --



1           SENATOR PADILLA: And I know your professional  
2 experience is much broader than just this --

3           MR. BLACKSETH: It is. My professional --

4           SENATOR PADILLA: -- specific category?

5           MR. BLACKSETH: -- experience is -- is as -- it's  
6 far boarder than just the disabled access portion of the code.  
7 It's certainly a particular interest of mine, for obvious  
8 reasons. It's certainly something I'm very sensitive to.

9           But what I'm hoping to bring to the commission is  
10 not only that sensitivity, but a far broader expertise to all  
11 areas of the code.

12          SENATOR PADILLA: Okay. Thank you very much.

13          MR. BLACKSETH: Thank you.

14          SENATOR ASHBURN: This is the opportunity for  
15 those who would like to speak in support of the nominee, please  
16 come forward. Jody will assist in facilitating those who would  
17 like to give testimony in support.

18          MR. RAYMER: Thank you. I'm Bob Raymer. I'm  
19 Technical Director with the California Building Industry  
20 Association, and in strong support of Mr. Blackseth's  
21 confirmation, as well as Susan Dowty and Christina Jamison, two  
22 other candidates for the Building Standards Commission who are  
23 not required to appear today.

24          I've been representing CBIA at the state and  
25 national level for some two-and-a-half decades now on building  
26 code related issues. On occasion, I get to meet some very  
27 knowledgeable individuals in structural analysis, fire safety,  
28 and in this case, disabled accessibility.

1                   This is no easy body of regulation.. You have  
2                   some federal and state statutes that could be clearer. You've  
3                   got a huge body of regulation at both the federal and state  
4                   level, very thick, voluminous documents which could be whole lot  
5                   more clear.

6                   But I must say that while it may be a huge body  
7                   of regulation, I would have to say that Mr. Blackseth is perhaps  
8                   one of the most knowledgeable individuals in this difficult and  
9                   technical subject area that I've run across in the entire  
10                  nation.

11                  We're very pleased to see him on the Building  
12                  Standards Commission. I'm sure he's going to be a huge asset to  
13                  them over the years.

14                  Thank you.

15                  SENATOR ASHBURN: Thank you.

16                  MR. ERICSON: I'm Steve Ericson. I'm just here  
17                  as a concerned citizen.

18                  I've known Kim Blackseth since 1979, when we  
19                  broke our necks and were in the hospital together. And I've  
20                  always known him to be a very honest and clear-thinking, hard  
21                  working person.

22                  And I've heard the term used here earlier about  
23                  thankless work. I thank you all for your work. And I'm  
24                  wondering why he's doing it, but I know that it's in his heart  
25                  to do these things.

26                  And I strongly support his -- he's just an  
27                  amazing guy.

28                  SENATOR ASHBURN: Thank you, sir.

1 MR. STEWART: My name is Tom Stewart. I've been  
2 a lawyer in private practice for 28 years. My office is in  
3 Clayton, California, which is in the Bay Area.

4 I began representing disabled people in access  
5 lawsuits about ten years ago. Since then, I've filed over 300  
6 lawsuits in federal court on behalf of disabled people, alleging  
7 violations of the Americans with Disabilities Act and  
8 California's Title 24.

9 My law practice is restricted exclusively to  
10 representing disabled people in access cases.

11 As a result of cases that I have filed, amusement  
12 parks, shopping malls, banks, private and public theaters,  
13 restaurants, ski resorts, private and public office buildings,  
14 hospitals, retail stores, and other types of businesses have  
15 become accessible to people with disabilities.

16 It's unfortunate that these lawsuits were  
17 required. However, as a large property management company  
18 representative recently stated to me, quote, "It's cheaper for  
19 business owners to do nothing to improve access and hope that  
20 they don't get sued."

21 I've obtained favorable decisions from courts  
22 stating, for example, that a pre-lawsuit notice is not required,  
23 that the entirety of a parking space and its access aisle must  
24 be level, when Braille signs are required for stores in a  
25 shopping mall, and when detectable warnings are required in a  
26 parking lot.

27 Mr. Blackseth gave me favorable opinions in his  
28 reports in these cases, and particularly with regard to the

1 Braille and the detectable warnings. I would not have prevailed  
2 in these cases were it not for Mr. Blackseth's unique opinion.

3 In the course of litigation, I frequently have  
4 needed to hire a disabled access expert for guidance and  
5 potential testimony. Over the years, I've hired experts Kim  
6 Blackseth, Peter Margen, Jonathon Adler, and Mike Boga in my  
7 access cases. Each of these experts is a first-class expert.  
8 I've also worked with ADA architect experts George Dedekian and  
9 Juergen Doser.

10 Looking back over the reports of my experts and  
11 the expert architects, it is my opinion that the extent of  
12 access recommended by Mr. Blackseth in his reports is  
13 substantially the same as the extent of access represented by  
14 these other experts.

15 I've hired Mr. Blackseth to be my expert in  
16 approximately 80 different access lawsuits. In each case,  
17 Mr. Blackseth has recommended modifications which, when  
18 completed, resulted in appropriate access to disabled people.

19 In 30 or so access lawsuits that I filed,  
20 Mr. Blackseth was hired as an expert by the business owner. I  
21 observed no difference in Mr. Blackseth's recommendations for  
22 access depending on whether he was hired by the disabled person  
23 or by the business owner.

24 The appointment to Mr. Blackseth -- of  
25 Mr. Blackseth to the commission was a smart move. It's my  
26 opinion that he will bring about greater access for the disabled  
27 community because he is steadfast in insisting on access, yet  
28 avoids actions which could result in a backlash by the business



1 community.

2 I therefore urge you to confirm Mr. Blackseth to  
3 the commission.

4 SENATOR ASHBURN: Thank you, sir.

5 MR. WHEELER: Good afternoon, Mr. Chairman and  
6 Members. Matt Wheeler, representing the California Building  
7 Officials, the heads of 500 local California building  
8 departments, in strong support today of Mr. Blackseth's  
9 confirmation.

10 We've achieved a lot over the past year with the  
11 California Building Standards Commission, much of which is  
12 directly attributable to Mr. Blackseth's leadership. We look  
13 forward to continuing to do that.

14 Thank you.

15 SENATOR ASHBURN: Thank you.

16 MR. JOHNSON: Committee Members, my name is Scott  
17 Johnson. Like Mr. Stewart, I am a plaintiff attorney. I have  
18 brought over 300 disabled access cases right here in Sacramento  
19 in federal court.

20 I feel very comfortable supporting  
21 Mr. Blackseth. He is truly an expert. He represents both  
22 business owners and the disabled.

23 I have never come across any derogatory  
24 statements of Mr. Blackseth's reports. I work with contractors  
25 who are out there doing the work, relying on his reports, and  
26 have told me and commented to me that his reports are very  
27 thorough.

28 Mr. Blackseth can support me at any time. I feel

1 very comfortable calling him and asking him on the phone, "What  
2 do you think about this. What do you think's right and what do  
3 you think's wrong?"

4 Mr. Blackseth brings access, and he brings  
5 respect. And I respect Mr. Blackseth for that.

6 I certainly hope he is nominated here today.  
7 Thank you.

8 SENATOR ASHBURN: Thank you.

9 MR. COOKNICK: Good afternoon, Mr. Chair and  
10 Members of the Committee. Kurt Cooknick, representing the  
11 American Institute of Architects, California Council.

12 My time with Mr. Blackseth has been limited to  
13 the extent since his appointment some ten months ago to the  
14 commission. But in that time, I've found him to be a very fair  
15 and equitable member of the commission, hearing the concerns of  
16 all sides, and deliberating those concerns before making any  
17 decision.

18 I think it's important that when addressing any  
19 disabled rights issue, we understand that it is a very, very  
20 difficult area, and one of a very personal nature to  
21 individuals, and one that any one of us could find ourselves in  
22 a very similar situation at any given time.

23 I, myself, have found over my time, 11 years as  
24 being a lobbyist for the AIA California Council, and 13 years  
25 in the practice of architecture prior to that, this area to be  
26 one that is continuously gray, but one that everybody whom I  
27 have had the pleasure to work with is sincerely trying to  
28 improve constantly upon. And so, any detractions on

1 Mr. Blackseth should also be weighed against the complications  
2 of the matter at hand and the issues involved.

3 So, that having been said, on behalf of the  
4 American Institute of Architects, California Council, I  
5 respectfully request your confirmation of Kim Blackseth to the  
6 California Building Standards Commission.

7 Thank you.

8 SENATOR ASHBURN: Thank you, sir.

9 Anyone else who would like to give testimony in  
10 support?

11 Anyone who would like to give testimony in  
12 opposition?

13 SENATOR ASHBURN: Welcome.

14 MR. CUSHMAN: Good afternoon. My name is Warren  
15 Cushman.

16 I want to say that I am not an industry lobbyist,  
17 or a lawyer, or anything like that. I'm just a blind guy making  
18 \$750 a month off a government stipend. So, I don't -- I don't  
19 have all the expertise that a lot of folks have in this room.

20 I am opposing Mr. Blackseth's confirmation mainly  
21 because there are a lot of folks that I respect in the  
22 disability advocacy community, a lot of organizations that I  
23 respect in the disability advocacy community that have deep  
24 concerns.

25 I know that there have been a lot of letters  
26 written. I hope that this Committee has seen some of the  
27 letters. I know Francie Mohler, Patricia Barbosa and others  
28 have written letters, and I would refer this Committee to really

1 take some time to look at those letters.

2 I would just say that I understand the concerns  
3 that it's a complicated issue. For me, I feel that it's really  
4 not as complicated. It's just a matter of the philosophy of  
5 access. We've had -- we've had over 30 years of access in this  
6 community, and it's just a matter of commitment.

7 And I feel that we need someone on the Building  
8 Standards Commission who can reflect the commitment of the civil  
9 rights ground of the disability community.

10 Thank you.

11 SENATOR ASHBURN: Thank you.

12 Next, sir.

13 MR. KYSOR: Thank you, Senators. Dan Kysor,  
14 Director of Governmental Affairs for the California Council of  
15 the Blind.

16 I thought Warren put it pretty well. You had a  
17 lot of paid interest groups there that received money. And I --  
18 the California Council of the Blind is opposed to the nomination  
19 due to a possible perceived conflict of interest, and his 45-day  
20 comment remarks regarding detectable warnings are contrary to a  
21 public law, and b, to access for blind people in California.

22 Thank you.

23 SENATOR ASHBURN: Thank you.

24 Next.

25 MS. D'LIL: Thank you. I'm HolLynn D'Lil. I'm  
26 a representative of the -- I'm a member of Californians with  
27 Disability Rights and the Coalition of Disability Access  
28 Professionals.



1           Thank you for the opportunity to speak to you  
2 today. This is not a happy occasion for the disability  
3 community, and I'm sorry that we have to be here before you and  
4 speak out against Mr. Blackseth's confirmation as our  
5 representative to the California Building Standards Commission.

6           I've sent you a letter that gives you  
7 documentation of incidences when Mr. Blackseth has demonstrated  
8 his lack of respect for the disability community and for the  
9 body of work that is in the standards and regulations that  
10 create an accessible environment for all of us. I hope you've  
11 had an opportunity to see that letter.

12           One quote from a report from the City of  
13 Riverside lawsuit, and which Mr. Blackseth stated in his report,  
14 that the California Building Code does not cover sidewalks and  
15 curb ramps. And in the letter, I specifically quote to you the  
16 section of the California Building Code that specifically covers  
17 that. So, this was either a mis -- a deliberate or not  
18 deliberate misstatement by Mr. Blackseth in a court setting.  
19 So, there's some hard evidence to view that, why we're here in  
20 numbers to oppose his confirmation.

21           Also, I've given to you a list of ten proposals  
22 he made during the 45-day comment period in the last code cycle  
23 to the Building Standards Commission, on which he is currently  
24 sitting, ten proposals that would actually weaken and take us  
25 backwards as far as accessibility goes. One to which Mr. Dan  
26 Kysor referred would decrease safety for persons who are  
27 visually impaired, and several others that relate to access for  
28 persons who use wheelchairs would decrease our safety and our

1       usability of buildings.

2               Recently, I was in a settlement conference  
3       representing the plaintiff, and Mr. Blackseth sat across the  
4       table representing the entity that was being taken to court in  
5       order to ask them to remove their barriers that preclude people  
6       with disabilities from enjoying the facility. And at issue was  
7       a ramp to a door.

8               Mr. Blackseth stated to his client and to  
9       everybody at the table that the ramp was okay if you take a good  
10      run at it.

11              This statement speaks so loudly against people  
12      with disabilities and our -- our laws in so many ways.

13              I did go out and measure the ramp. It was 22  
14      percent. Now, the maximum allowed slope is 8.33 percent.

15              But that he would say a person in a manual  
16      wheelchair could use this ramp if they take a good run at it  
17      demonstrates a vast lack of respect for the disability community  
18      which he is supposed to be representing, because there are many  
19      people who use manual wheelchairs who cannot take a good run at  
20      anything, nor should they be expected to.

21              I tried going up the ramp in my power chair and  
22      had a great deal of difficulty to keep myself from going over  
23      backwards.

24              This is just one other small item, but during the  
25      same conference, at issue was the bottom slope of a ramp, which  
26      is the bottom landing of a ramp, which has to be 72 degrees.  
27      And this is getting really technical, but this is -- this is  
28      important to us. The devil's in the details when it comes to

1 accessibility.

2 And when I talk about this body of work, it has  
3 been worked out over decades, with thousands and thousands and  
4 thousands of volunteer hours by the disability community. And  
5 this body of work, the California Building Code, the ADA,  
6 Accessibility Guidelines, need our respect for the citizen  
7 involvement and the -- and the effort that's been put into them.

8 So, the issue was this ramp. And maybe it's only  
9 five inches, and it doesn't seem to be important. But it is  
10 important when you realize how long it took us to work out these  
11 issues, and how important they are to the usability of a  
12 facility to accommodate as many people as possible.

13 Mr. Blackseth said the bottom of the ramp was 72.  
14 I measured it; it was 67. Only five inches difference, but  
15 there can be a great -- it just speaks to the lack of respect  
16 for what is so important to the disability community.

17 Another issue at the table that day was the path  
18 of travel from one building to another building, which crossed a  
19 vehicular way. And one side of the vehicular way -- and this  
20 was a cross-hatched painted pathway. On one side of the  
21 vehicular was a curb, no curb ramp. On the other side was three  
22 steps. Mr. Blackseth said well, there is a path. The path  
23 would be through two parking lots and across a vehicular way  
24 without a cross-hatch marking. And that was what people in  
25 wheelchairs would have to use. And Mr. Blackseth was insisting  
26 that was okay.

27 And the tragedy is, the client, his client, was  
28 very willing to do whatever was necessary to make the changes.

1 He was -- he was creating unnecessary obstacles for everybody  
2 when we were really there in good faith to create accessibility  
3 for everybody, to increase the market base for this facility.  
4 And Mr. Blackseth, you know, is demonstrating again a lack of  
5 respect for the community he's supposed to represent, and a lack  
6 of respect for the body of work that embodies our physical  
7 access to our civil rights.

8 Thank you.

9 SENATOR ASHBURN: Can I ask you a question?

10 The three cases that you cited, the three  
11 specifics, were those in the context of litigation where  
12 Mr. Blackseth was serving as an expert witness? Or were they in  
13 his capacity as a member of this commission in the work of the  
14 commission?

15 MS. D'LIL: Now, the 45-day comment period,  
16 comments he made were, I believe, as a member of the public.  
17 But he was making them to himself because he is a commissioner.

18 And the cases --

19 SENATOR ASHBURN: I'll ask him for clarification  
20 on that.

21 And the other two cases?

22 MS. D'LIL: What I was speak something of were  
23 not to do with the commission. Is that what you're asking?

24 SENATOR ASHBURN: Yes.

25 MS. D'LIL: No, they had nothing to do with the  
26 commission.

27 SENATOR ASHBURN: I don't know your background,  
28 but I get the feeling that you are involved in litigation.



1 MS. D'LIL: I do accessibility consulting and I'm  
2 an expert witness in litigation.

3 SENATOR ASHBURN: So, you're a consultant in  
4 business on these issues. And Mr. Blackseth in his private role  
5 is the same.

6 MS. D'LIL: Yes.

7 SENATOR ASHBURN: So, two of the three examples  
8 you've given have been in the context of him performing his  
9 private business and giving his opinion in the context of his  
10 private business?

11 MS. D'LIL: Correct.

12 SENATOR ASHBURN: And one was over this 45-day  
13 comment period, and that was in the context of his role as a  
14 commissioner?

15 MS. D'LIL: No, I don't believe it was in the  
16 context of his role as a commissioner. That was --

17 SENATOR ASHBURN: I'll clarify that with him.  
18 Thank you very much.

19 MS. D'LIL: Thank you.

20 SENATOR ASHBURN: Next. Welcome. We're always  
21 glad to see someone wearing a crown.

22 MS. ROTCHY: Thank you. I just received it  
23 Saturday from my advocacy in the disabilities community.

24 SENATOR ASHBURN: Congratulations.

25 MS. ROTCHY: My name is Susan Rotchy and, of  
26 course, I am now the title holder of Miss Wheelchair  
27 California. I am a representative of women with disabilities.

28 As a person with disabilities, I expect that a

1 person with a disability that is in charge of the responsibility  
2 of representing people with disabilities holds a position of  
3 power and authority to effect the public policy, to have the  
4 ability to represent all persons with disability, and not based  
5 on their decisions on the narrow view of their own interests.

6 I am not paid by anybody. I am strictly a  
7 volunteer for every board that I sit on. I just -- I'm a member  
8 of ILR. I also have my own nonprofit, Research for Cure. So I  
9 am not paid, but I don't want to push that extra mile, because I  
10 do have wheelie bars. And I'm not in a power chair; I'm in a  
11 manual chair.

12 And I was in an automobile accident. This is --  
13 this is me today, but this could be any of you tomorrow.

14 Thank you.

15 SENATOR ASHBURN: Thank you.

16 MS. TERRY: Thank you. My name is Terelle  
17 Terry. I've been a state delegate to the national Gray Panthers  
18 conventions on accessibility issues. I am a member of  
19 Californians for Disability Rights which, a long time ago, was  
20 called CAPH, California Association of the Physically  
21 Handicapped.

22 In the early '70s, we went to occupy the Federal  
23 Building in San Francisco, and a number of other people went to  
24 occupy the Federal Building in Washington. Many of you are way  
25 too young to remember any of this.

26 We did this because Joseph Califano, who was at  
27 that time Health, Education and Welfare Secretary, said that we  
28 didn't need the rights which had been granted to us in 1973 by

1 the Federal Rehabilitation Act of 1973, Section 504, which gave  
2 us for the first time the right to transportation, housing,  
3 medical care, education, and said that we had rights; we were  
4 people.

5 Many of us honed our skills during the Civil  
6 Rights demonstrations, and so we had roll-ins rather than  
7 sit-ins.

8 So, I've had more than 35 years as a volunteer,  
9 and occasionally working for the state for the Department of  
10 Corrections and the Department of Rehabilitation.

11 I've spent most of my adult life with a  
12 disability, and most of my childhood with a disability, too.  
13 I've been in and out of a chair for 62 years, and most of it  
14 hasn't been fun. But one of the reasons that I worked for  
15 accessibility is because it's not just me. It's all of you, and  
16 your children, and your parents, and your friends.

17 And I have to say that I was informed -- and I'm  
18 told that I'll get people in trouble for saying this. Well,  
19 I've never cared if I got anybody else in trouble. I don't know  
20 where this information came from. And you may think it's a  
21 rumor, but I don't think it is.

22 I was told that during the discussions for the  
23 last round of Building and Standards that Mr. Blackseth worked  
24 on, he wanted to take out some wording.

25 Well, our whole access and our whole law is based  
26 on two things. It should be accessible to and usable by persons  
27 with disabilities. And my information is, he tried to take out  
28 "usable by."

1                   This may not be true, but I have it on good  
2                   authority, and the people who told me I do trust. And I have,  
3                   as I say, some expertise. I helped to make the annex of this  
4                   building accessible. It was some of my designs that went into a  
5                   great deal of accessibility for state buildings in California.  
6                   I helped to design the California Car, the trains that go back  
7                   and forth to the Bay Area. I worked on accessibility for  
8                   Amtrak. None this was paid.

9                   And I must say that I've worked so long and so  
10                  hard for accessibility that when I see the Buildings and  
11                  Standards Commission rules, where they try to promulgate, which  
12                  took away our rights, which took away our access, which took  
13                  away those inches which we're told in litigation, "Oh well, it's  
14                  just a matter of inches," it is a matter of inches. A few  
15                  inches can make the difference between getting in a doorway,  
16                  getting up a ramp, getting around a corner, getting to a grab  
17                  bar, getting to a toilet. It is a matter of inches.

18                 And Mr. Blackseth has an idiosyncratic attempt to  
19                 interpret the law.

20                 Now, this is not an argumentum ad hominum. I  
21                 don't know this man. In all my years I've never met him. I've  
22                 never seen him at a hearing. He's never been to a  
23                 demonstration. He has never been to anything that I've ever  
24                 been to. He's never participated any association, although I  
25                 understand he sent a membership to an association but never  
26                 attended.

27                 So, I don't know him. I'm not saying anything  
28                 against him.



1 I'm just saying that if he's on the Building and  
2 Standards Commission, we're guaranteed to lose access.

3 I have one more example. A number of years ago  
4 there was an attempt at making protection for those of us who  
5 are not walking or cannot walk well. If you go into a regular  
6 building in California, you see a big sign that says, "In case  
7 of fire don't use the stairs."

8 No, it doesn't. I'm sorry. It's "Don't use the  
9 elevator."

10 You guys can use the stairs. We are supposed to  
11 wait at the elevator in a containment area. We call that "Shake  
12 and Bake," because it will last an hour, one hour. We have no  
13 evidence that the firemen ever went up to the "Shake and Bake"  
14 area, even when there was a fire alarm.

15 We testified to that at the Building and  
16 Standards Commission. We testified against every single  
17 regulation that diminished our rights and reduced our safety.

18 Neither by word, nor deed, nor testimony, nor  
19 glance, nor look, nor smile did Mr. Blackseth acknowledge any of  
20 us and our rights.

21 Thank you.

22 SENATOR ASHBURN: Thank you.

23 Welcome.

24 MS. RIKER: Thank you.

25 Members of the Commission, I'm talking about --

26 SENATOR ASHBURN: Can you give your name?

27 MS. RIKER: Oh, I'm sorry. My name is Jean  
28 Riker, and I'm a member of Californians for Disability Rights,

1 and the Legislation Chair for that Committee.

2 My comment is about restaurants and other  
3 places. I've been -- I love to eat. And therefore, I often  
4 find restaurants to be particularly difficult, especially when  
5 it's Morton's, or other places that we know well, and also  
6 places like fast-food restaurants.

7 You know, all the fixed seating is really not  
8 welcoming to people with wheelchairs.

9 On public record Mr. Blackseth has asked the  
10 Building Standards Commission to eliminate the requirements of  
11 -- that a small portion -- small portion -- of seating in  
12 restaurants to accommodate persons in wheelchairs.

13 I find that absolutely horrible. You know, it's  
14 almost like I can't in good conscience say that it's not like  
15 the -- the lunch counters that we -- the African-Americans  
16 couldn't access. That's a whole different thing.

17 But with the ADA and the Rehabilitation Act -- I  
18 stutter.

19 SENATOR ASHBURN: You're doing fine.

20 MS. RIKER: There is no reason why -- these kinds  
21 of things to me are just hateful. And I would plead with you  
22 not to confirm Mr. Blackseth.

23 Thank you.

24 SENATOR ASHBURN: Thank you.

25 MR. SKAFF: Senator, Richard Skaff. I'm  
26 presently Executive Director of Designing Accessible  
27 Communities, but formerly with the City of San Francisco.

28 You don't probably recognize me. I've lost a

1 little bit of hair and don't have my mustache any longer. I'm  
2 doing a little support for my wife, who's going through chemo.  
3 I didn't say that for your sympathy. I just wanted you to know  
4 that I've been here with you before, and just wanted you to know  
5 who I was.

6 We've last spoken, I think, at the Secretary  
7 Rosario Marin's hearing and supported her appointment and her  
8 confirmation.

9 I'm not sure where to start, except to say we  
10 also met the Governor's new appointment secretary in a meeting  
11 in the Governor's Office about a week ago, week-and-a-half ago.  
12 I can't say anything about the gentleman, because I have very  
13 little, hardly any, experience with him. And he had nothing to  
14 do with this appointment.

15 And I feel, as Ms. D'Lil said, very sad about  
16 being here today, because I don't want this perceived, our  
17 opposition to this appointment, perceived as a statement to  
18 Mr. Schwarzenegger, the Governor, that we don't accept his  
19 appointments. I don't think he was aware of the issues, the  
20 concerns, of the disability community. And I hope in the  
21 future, with the new appointment secretary, there will be. And  
22 it appears there's going to be an ongoing interaction so the  
23 community really has the ability to interact and talk about the  
24 issues that concern us before it gets to this point.

25 I guess I should give a little background. I was  
26 hired as a Chief Building Inspector with the City of San  
27 Francisco in 1989. And I think you've all probably heard this  
28 before, but I want to very quickly give that because I have some

1 technical background. Not one necessarily in court, although I  
2 have acted as an expert witness, but most of my work in the last  
3 15 years has been as a code official for the City of San  
4 Francisco and the Deputy Director of the Mayor's Office on  
5 Disability, which I started for Mayor Willie Brown, former  
6 Speaker Brown, as the Deputy Director in 1998.

7 My first experience with Mr. Blackseth was either  
8 late 1989, soon after I was hired, or early 1990 when he  
9 appeared at a San Francisco Building Department Access Appeals  
10 Commission, representing North Pointe Shopping Center. I was  
11 acting as staff, as the secretary to the Access Appeals  
12 Commission, which is a body that is allowed by state building  
13 code to exist within cities and counties to look at appeals to  
14 decisions made on accessibility by a building department. It's  
15 not required, but a local building department can make a  
16 decision to adopt this process and have five people on this  
17 commission, and it's very clearly defined, make a decision based  
18 on input and respond to an appeal made by the building  
19 department.

20 In any case, the San Francisco Building  
21 Department turned down a request for an issue within the North  
22 Pointe Shopping Center. Mr. Blackseth came as an expert,  
23 representing the North Pointe Shopping Center. And this started  
24 a long-term very interesting relationship between Mr. Blackseth  
25 and myself. Because what he said at the time was -- as a  
26 relatively newly disabled person, I became disabled in a fall in  
27 1978. I had been in the restaurant business for almost 20  
28 years.



1 I was shocked as -- sitting at this hearing,  
2 listening to Mr. Blackseth speak, representing this business,  
3 saying, "I'm a C-5 quadriplegic, and I can use that noncomplying  
4 item that is of concern here today, that's being talked about as  
5 an Access Appeals issue. And I can use it as a C-5  
6 quadriplegic, so why don't you just approve this."

7 And that -- that is where I first came into an  
8 interaction with Mr. Blackseth. And that wasn't a good  
9 interaction, mainly because as, Ms. D'Lil said, we have building  
10 code. And although California AIA and CalBO, which I'm a member  
11 of, by the way, California Building Officials. I'm a retired  
12 building official. Even though you heard testimony today that  
13 the building codes are very difficult, I can tell you that, yes,  
14 they are very difficult. But they can be looked at in one of  
15 two ways, the access codes, and I'm looking at that  
16 specifically. They can either be looked at proactively and in  
17 favor of accessibility, or reactively and not necessarily in  
18 favor of accessibility.

19 And that's why you'll see in a document provided  
20 in a resume by Mr. Blackseth a statement that -- with a list  
21 of -- a partial list, I should say, of almost 2500 firms that  
22 Mr. Blackseth has in many or most of the cases, and I can't  
23 speak to either or, he has acted as the expert.

24 And Senator, you brought up the issue of whether  
25 these were -- these issues that we're raising today were part of  
26 Mr. Blackseth's private business as a consultant or his work as  
27 a commissioner.

28 We only have one position on this commission.

1 That is by legislation that the Senate and the Assembly put  
2 forward, recognizing the need to have representation from our  
3 community because building code affects how we function in the  
4 community. We have only one seat out of I think it's eleven  
5 members.

6 The importance of Mr. Blackseth's style and work  
7 in his private arena as a consultant directly reflects how he  
8 works as a commissioner. And the last Building Standards  
9 Commission experience was a perfect example of that.

10 We had close to 150 people with disabilities. We  
11 had so many people that we had to have two rooms. Mr. Walls,  
12 who's here today, the Executive Director of the Building  
13 Standards Commission, I'm sorry to say, had to have another room  
14 put aside with a television system so people in other room could  
15 watch what was going on.

16 There was not one time in the months before that  
17 hearing where 150 people, about, from our community showed up to  
18 oppose the items before the Building Standards Commission.  
19 There was not one time that I am aware of, and I think if you  
20 ask the people that are here opposing his position today, they  
21 don't know of a time that Mr. Blackseth, as our representative,  
22 raised the question to us, do you support these building codes  
23 that are being put forward? Do you not oppose them?

24 Do you know what it took for those of us in the  
25 community that understand how the process works? It took two of  
26 us, Ms. D'Lil and myself, to work with David Thorman, who -- we  
27 were here, by the way, for your appointment, your confirmation  
28 of Mr. Thorman, the State Architect. And we supported

1 Mr. Thorman, and we're thankful we did, because on Friday,  
2 before the following week hearing, Mr. Thorman pulled 13 -- no,  
3 12, 11 of the 15 items that we were opposing out of the  
4 package. We didn't do that through Mr. Blackseth.  
5 Mr. Blackseth didn't do that for us. It took advocates within  
6 the disability community to work directly with the State  
7 Architect's Office to accomplish that.

8 Now, that doesn't speak to me as a great  
9 representation of our community. And because these are issues  
10 that are very, very important to our community, we are now going  
11 to be -- based on our advocacy at that commission hearing, the  
12 State Fire Marshal has agreed to start an advisory committee, as  
13 is the State Architect having an advisory committee, neither one  
14 based on Mr. Blackseth.

15 Again, when we have somebody representing us,  
16 they need to represent us. And we don't have that, ladies and  
17 gentlemen. We do not at the present time have a representative  
18 on the Building Standards Commission.

19 That doesn't mean to say that there aren't  
20 members of the Building Standards Commission that understand  
21 access codes, or support or don't support them. We're not here  
22 to talk about the rest of them. We're here to talk only today  
23 about the one person on that eleven-member commission that  
24 supports us.

25 And I can tell you, and you can see in the  
26 documents you received, and I have one that is from Ms. Barbosa,  
27 who used to be with the Attorney General's Office as an attorney  
28 in the Civil Rights Section, you have a plethora of responses to



1 Mr. Blackseth's appointment, all of them opposing -- well, not  
2 all of them -- most of them opposing Mr. Blackseth's  
3 appointment.

4 I'm hoping, and I was hoping the gentleman would  
5 be here listening to us today, the new appointments secretary,  
6 because we would like the opportunity to talk with the  
7 Governor's appointment secretary and explain our reasoning for  
8 not supporting Mr. Blackseth, and the reasons we need to have  
9 somebody on that commission that supports what we need.

10 And when you see that our representative supports  
11 and acts for mostly those that we have had to take to court to  
12 get access, then there's a problem, and I'll give you a couple  
13 of examples and then I'll stop.

14 My direct experience with Mr. Blackseth sitting  
15 across the table were two cases, the Town of Corte Madera and  
16 the Town of Ross. And I still am very angry about both of them,  
17 especially the town of Ross, when I, as a member of the Town  
18 Council and Town of Corte Madera, was attempting to start --  
19 which I did -- a paramedic program in the Ross Valley in Marin  
20 County.

21 I attempted to go to each one of the political  
22 bodies, either town councils, city councils, boards, and special  
23 districts to get their support for that project, the Ross Valley  
24 Paramedics.

25 I couldn't get into the Ross -- the Town of Ross  
26 City Hall, Town Hall, because it wasn't accessible. I contacted  
27 the Town of Ross and explained that to them.

28 Now, I was also the Chair Of the Marin County



1 Council of Mayors and Councilmen at that time, 55 members of all  
2 the town and city mayors and council members. And here I was,  
3 not able to do city and county business in a public facility.  
4 And the Town of Ross hired Mr. Blackseth. And Mr. Blackseth sat  
5 across a table from me, saying to both me, my attorney, and the  
6 Town of Ross attorney, and city manager, that the Town of Ross  
7 didn't need to make their Town Hall accessible, nor did they  
8 need to do a transition self-evaluation plan, which is required  
9 under the ADA.

10 Let me explain. That case is now settled. That  
11 case required the Town of Ross to make the Town Hall accessible  
12 and make the Town of Ross develop a transition self-evaluation  
13 plan.

14 The Town of Corte Madera, up until last year, did  
15 not have an accessible bathroom in Town Hall. And the Town  
16 Council said to me, why didn't you do that when you were on the  
17 Town Council? I said I was only one of five members. You all  
18 understand that. When you vote, you're a single vote. I  
19 couldn't control the other four members. And I had said, I'm a  
20 person with a disability on the Town Council. I need to have an  
21 accessible bathroom. Four other members didn't think that was a  
22 priority.

23 Well, it came to a legal action, and guess who  
24 was the expert? Guess what the Town of Corte Madera now has? An  
25 accessible bathroom after a lawsuit.

26 That indicates, and it was similar to the Steve  
27 Jensen issue that we brought before you, a professional -- the  
28 professional work that's done outside of the work a person does

1 on a state body reflects what they do on that state body. They  
2 don't change hats and styles of business or attitudes when they  
3 leave their private business or public business and come in and  
4 act on a state board or commission.

5 And I would ask you, implore you all, to  
6 understand that this one position, when we have ten others that  
7 may or may not be of interest -- not have any interest in  
8 accessibility, we need to have strong representation. We only  
9 have one member representing us. We need somebody that will  
10 really do that. And I am asking that you consider our concerns.

11 Thank you for your time.

12 Oh yes, I'm sorry, Schindler Elevator. This is  
13 an appeal before the San Francisco Access Appeals Commission  
14 that just occurred. This is the binder that Schindler Elevator  
15 put forward for what is called a destination elevator for  
16 high-rise buildings. This was done while Mr. Blackseth is on  
17 the Building Standards Commission. And I have in front of me  
18 documentation with his statements, with Mr. Blackseth's sworn  
19 testimony at this hearing, that he is a commissioner of the  
20 California Building Standards Commission.

21 Now, you've got to understand, this is a  
22 gentlemen acting as a consultant for an industry manufacturer,  
23 for a product that was turned down by the building department,  
24 and is going before the Access Appeals Commission. And he says  
25 here, he has been retained by the Schindler Elevator Company.  
26 Later in his --

27 SENATOR ASHBURN: Do you know if that was in  
28 response to a question?

1 MR. SKAFF: This is his written statement that  
2 was given -- that was taken by Schindler's attorney and put in  
3 this package as an appeal document.

4 SENATOR ASHBURN: I don't know the context. I  
5 don't know if it was a part of a deposition, and that the  
6 gentleman was asked his profession --

7 MR. SKAFF: No, it wasn't part of a deposition.

8 SENATOR ASHBURN: -- affiliations. I don't know  
9 those things.

10 MR. SKAFF: This was part of an access appeal to  
11 the Access Appeals Commission in San Francisco.

12 SENATOR ASHBURN: No, I understand that.

13 MR. SKAFF: This was -- this is a declaration.  
14 It was done as a consultant to the company that asked him to do  
15 a declaration.

16 Their attorney took the declaration with a  
17 registered court reporter -- thank you, I apologize -- and this  
18 is -- these are his statements supporting the Schindler appeal.  
19 He says he is there consulting for Schindler. He also goes on  
20 to say that he's a member of the Building Standards Commission.  
21 Then he goes on to say,

22 "I understand that Schindler  
23 intends to submit a request to  
24 the commission within the 45-day  
25 comment period to incorporate the  
26 ANSI standard regarding  
27 destination-oriented elevators ...  
28 I do not expect any opposition

1 related specifically to the  
2 technology."

3 This is as a consultant to the company that he is  
4 representing at the same time he is on the Building Standards  
5 Commission. And he's talk about this, understanding that this  
6 is going -- this issue is going to be coming to him as a  
7 commissioner.

8 I see that as conflict of interest. And I have  
9 -- I'll be happy to provide this to you, although I will need it  
10 back because I am appealing the appeal. Sorry about that. May  
11 I leave it with you, and may I get it back at sometime in the  
12 near future?

13 SENATOR ASHBURN: I'm sure the Rules staff would  
14 be happy to receive it and then to return it to you.

15 MR. SKAFF: Would that be possible? I'd  
16 appreciate it. And I apologize for my ongoing statements.

17 SENATOR ASHBURN: Thank you. I appreciate that.

18 MR. SKAFF: I appreciate your allowance, sir.

19 SENATOR ASHBURN: Thank you, sir.

20 MR. SKAFF: Thank you, Members.

21 MS. GOLDKORN: If everyone will please excuse my  
22 sideways-ness. And if I'm not looking at you, I apologize, but  
23 I don't fit under your table.

24 SENATOR ASHBURN: I hope that's not too  
25 uncomfortable for you.

26 MS. GOLDKORN: No, it's all right.

27 Again, I'm sorry for the people who have my back.  
28 I apologize.



1 SENATOR ASHBURN: Thank you for being here.

2 MS. GOLDKORN: Thank you.

3 My name is Ruthee Goldkorn. I flew up here today  
4 to speak with you, and I appreciate the opportunity to do so.

5 I'm the Executive Director of the Ms. Wheelchair  
6 California Pageant that you have heard a little bit about. We  
7 have a former title holder who also spoke to you, Jean Riker.  
8 So, we are surrounded by royalty today.

9 This is an advocacy and activism program for the  
10 benefit of women with disabilities, and the primary goal is to  
11 elevate the status of women with disabilities, and come to  
12 governing bodies and public policy holders to address the issues  
13 of not only women with disabilities but the disability  
14 community.

15 I am a wife. I'm a parent. I am a person with a  
16 disability. I live in Mareno Valley, so when you spoke of the  
17 Inland Empire, I take it to heart. Again, I appreciate being  
18 able to come.

19 I liken this hearing to a job performance review.  
20 The private sector does it. Teachers are subject to it, and you  
21 are subject to it every few years. If one does not do one's  
22 job, one is not retained; true? Yes. You need to know if the  
23 employee has at least met standards to determine if the person  
24 is to be retained.

25 The standards of the appointees to the California  
26 Building Standards Commission and their job description,  
27 including evaluating building codes and reviewing any and all  
28 revisions, submissions, recalculations or modifications of

1 existing or brand-new codes or policies submitted by the  
2 Division of the State Architect, the Office of the State Fire  
3 Marshal, the Office of the Attorney General, and others.

4 To be sure, we are not just referring to these  
5 codes as they pertain to the disability community, but for every  
6 facet of every building, whether government or private, in  
7 California.

8 Additionally, the members of the California  
9 Building Standards Commission vote as to whether the proposal or  
10 change is in conflict with any other regulatory or statutory  
11 requirements, and weigh testimony presented in support or  
12 opposition to any changes or modifications to codes.

13 Specifically, appointee Mr. Blackseth is to make  
14 these determinations based almost solely on the impact, positive  
15 or negative, to the disability community as his position is that  
16 of the official representative of the disability community. And  
17 that position was specifically created so that we will have at  
18 least one voice on the Building Standards Commission. We are 20  
19 percent of the population and growing. And yet, we have one  
20 voice on the Building Standards Commission.

21 The other members have some level of designation,  
22 but are not specific to a designated constituency, either the  
23 building industry or the business community, as this would give  
24 them the status of lobbyist. And as we all know, that is not  
25 allowed.

26 These are political appointees and are subject to  
27 the winds of political change as they occur in Sacramento and  
28 throughout California. These are appointments at will.

1           As a person with disability, Mr. Blackseth was  
2 given the status of having a specific constituency to represent.  
3 And he is a representative, not a lobbyist. We have no specific  
4 financial gain from his position, and he is to be viewed as our  
5 watch dog. He was given this position to protect the interests  
6 of disability community, and such a designation is not in  
7 conflict with state law.

8           Has Mr. Blackseth performed his job function as  
9 designated and required? By all accounts, both what I  
10 personally have seen and have read in written public statements  
11 and those proffered by others, which are personal accounts or  
12 anecdotal witness, I would say the answer is no.

13           And I would encourage you, these are public  
14 statements. These are public records, and we all remember  
15 statements made a little differently. Someone hears it one way;  
16 someone remembers it another.

17           So, I would encourage you to look up these  
18 documents, these records, these litigation records, and  
19 determine for yourselves from the public record what it was  
20 Mr. Blackseth said, what he implied, what he inferred, and what  
21 he meant.

22           The actions of Mr. Blackseth outside the confines  
23 of the CBSC relative to his perceived or actual conflicts of  
24 interest, working as a defense consultant in lawsuits filed by a  
25 member or members of the disability community as to  
26 architectural barriers encountered which constitute a building  
27 code violation, should be scrutinized. If indeed Mr. Blackseth  
28 consults with members of the business and legal communities



1 about specific building codes as they apply to accessibility,  
2 and Mr. Blackseth is aware that opposition to some of those  
3 codes exist with the very people who pay him, under no  
4 circumstances could Mr. Blackseth perform his job with the CBSC  
5 of reviewing any and all current and proposed changes to state  
6 building codes relative to disabled access, b, in an unbiased or  
7 uninfluenced fashion. It is simply not possible to ignore the  
8 influence of those from whom one receives one's income.

9 Ladies and gentlemen, I do believe based on a  
10 strict interpretation of the job description, function and  
11 purpose as the official representative of the disability  
12 community on the CBSC, you will indeed find that Mr. Blackseth  
13 has not met the requirements of his job description, and you  
14 should not present him with the privilege of a multi-term  
15 appointment.

16 And again, I thank you for the opportunity of  
17 speaking with you today. And Mr. Blackseth does not represent  
18 me as a person with disability and a person who lives in the  
19 State of California.

20 Thank you very much.

21 SENATOR ASHBURN: Thank you, ma'am.

22 DR. SEGALMAN: My name is Dr. Bob Segalman. I am  
23 here to oppose the nomination of Kim Blackseth.

24 I am a long-time advocate of the rights of people  
25 with disabilities. People know me best as the founder of the  
26 national telephone access service for people with speech  
27 disabilities, called Speech to Speech.

28 So, you ask why does a telephone access advocate



1 care about an appointment at the Building Standards Commission?  
2 The answer is that my work takes me to many public and private  
3 buildings. If I cannot get in the door and to my appointed  
4 floor and room, I cannot do my work to ensure that all  
5 Californians with speech disability know how to use the free  
6 telephone assistance service that I designed for them.

7 Thus, my opposition to the nomination of Kim  
8 Blackseth is based on three factors. These three factors make  
9 him unlikely to do his best to ensure that I have such access.

10 One, Mr. Blackseth often makes proposals to the  
11 Building Standards Commission to reduce accessibility  
12 requirements in California. The Senate has ten such  
13 proposals.

14 Two, the disabled community lacks confidence in  
15 Mr. Blackseth's ability to represent us fairly on that  
16 commission. Most of his work is as an expert witness for  
17 businesses and government entities. That is, he often  
18 represents all levels of federal and state access laws and  
19 regulations.

20 Three, the Governor failed to seek input from the  
21 disability community before he nominated Mr. Blackseth.

22 Again, I oppose the nomination of Kim Blackseth.

23 SENATOR ASHBURN: Thank you, sir.

24 MS. ARNOLD: Thank you. My name is Connie  
25 Arnold, and I'm an individual with a disability. I kind of  
26 consider myself a disability policy consultant.

27 I don't earn any money from that. I just give  
28 input on what I feel is right.

1 I'm here to oppose the confirmation of Kim  
2 Blackseth because, for one, he doesn't represent my interests.  
3 I know that he will work, and he's all ready shown some code  
4 changes he's proposed to the Building Standards Commission to  
5 roll back disabled access codes, and that affects my civil  
6 rights. Because frankly without disabled access, without access  
7 to buildings, I can't function.

8 I have a significant disability. Most of the  
9 people here that have all ready testified in support of  
10 Mr. Blackseth for the most part are nondisabled individuals.  
11 Most of the people here that you see opposing his confirmation  
12 are individuals with significant disabilities.

13 Under California law, it's a conflict of interest  
14 for a public official to financially benefit from their  
15 decisions under the Fair Political Practices Act. The  
16 appointment confirmation of Kim Blackseth creates nothing less  
17 than the appearance of impropriety. In my opinion, his  
18 confirmation is an inherent conflict of interest by confirming  
19 his appointment as disabled representative. That position is  
20 supposed to represent the interest of the majority of people  
21 with disabilities. I do not feel that, nor does the majority of  
22 people in the community feel that Mr. Blackseth represents our  
23 majority view for improvements to the accessibility codes, to  
24 provide better access in areas that are still problematic.

25 We only have one appointee. We would like to  
26 have somebody that represents our interests on the Building  
27 Standards Commission.

28 Basically, he earns a living as an access

1 consultant. And he predominantly represents business interests.

2 I urge you that you do not confirm Mr. Blackseth  
3 because public officials are supposed to not benefit financially  
4 from their decisions, and Mr. Blackseth, as an access  
5 consultant, does benefit directly.

6 Mr. Blackseth will probably argue that he can  
7 separate his conflicts, but you have to consider the conflict  
8 for the appearance of impropriety that his appointment will  
9 create.

10 I thank you very much.

11 SENATOR ASHBURN: Thank you very much.

12 Anyone else in opposition?

13 MR. BURKS: Senator, Members of the Committee, my  
14 name is Rocky Burks. Good to see you again, Senator Ashburn.  
15 We've worked together on a number of issues in the past.

16 SENATOR ASHBURN: Yes, we have.

17 MR. BURKS: Regretfully, I'm here to oppose  
18 Mr. Blackseth's appointment.

19 I have over 30 years of professional work in  
20 disability policy in the State of California and on a national  
21 level. I served 20 years as an executive director of a Center  
22 for Independent Living. I currently now serve in an official  
23 capacity of a municipality as the ADA coordinator affecting  
24 public right of way.

25 I hand-delivered a letter yesterday to each of  
26 your offices specifically because I became very alarmed of a  
27 professional opinion that Mr. Blackseth had written in the case  
28 of Longberg versus the City of Riverside.

1 I believe, Mr. Dutton, you represent that area.

2 What's really unfortunate in this particular  
3 lawsuit is that Mr. Blackseth is on the record as an expert for  
4 the City of Riverside. As that expert, he fills a fundamental  
5 responsibility to inform his client as to the requirements of  
6 both federal and state accessibility standards and statutes.

7 In his report that he wrote for his client, he  
8 specifically does say in the report that the California Building  
9 Code does not apply to the public right of way. And  
10 regretfully, I just can't imagine why, with the skill and  
11 ability that has been expressed here today regarding  
12 Mr. Blackseth, that he would put in a legal document that he can  
13 be held accountable for that our local state building code does  
14 not apply to the public right of way.

15 There are numerous instances in Mr. Blackseth's  
16 function as a private consultant that he's on the record that  
17 does represent issues contrary of disability access compliance.  
18 For whatever reason that may be, I'm not here to second-guess  
19 his clients, or why they feel that he's appropriate as their  
20 expert.

21 But as a member of the public, and as a person  
22 that's involved in 30 years of disability access policy on both  
23 the state and federal level, it gives me great concern that the  
24 one representative that the State Building Standards Commission  
25 does have is being opposed by a large majority of the disability  
26 community, but being supported by the various industries that  
27 have professionals who are paid to understand what these state  
28 and federal regulations of accessibility law are, only to



1 continue to be litigated for their failure to comply.

2 It's disturbing. And it's disturbing to a  
3 significant degree that Mr. Blackseth was moved forward without  
4 the Governor's Office seeking input from the disability  
5 community. And you are confronted here today, as Members of an  
6 esteemed body, to affirm a recommendation by the Governor that's  
7 being opposed by the very population that Mr. Blackseth is to  
8 represent.

9 His record is fairly clear. He does make some  
10 misrepresentations and misinterpretations of egregious levels of  
11 both federal and state access requirements.

12 In the City of Riverside case particularly, when  
13 Mr. Blackseth fails to go to the Administrative Chapter of Title  
14 24, specifically Section 101.17.11 and not inform his client  
15 that the public right of way is covered, that sidewalks are a  
16 program and service that is covered under Government Code 11135,  
17 it's disturbing.

18 And it's disturbing because he's now being  
19 recommended to be on the Building Code Committee, that all  
20 promulgated code that is being recommended, he's going to  
21 approve or reject.

22 I finds it really repulsive that I had to be here  
23 today to oppose his nomination and confirmation, but I felt  
24 strong enough and deeply enough, given the fact that I saw in  
25 his latest legal opinion to a client that's a public sector,  
26 that's going to cost millions and millions of taxpayer dollars,  
27 that he was saying it wasn't required.

28 I'm asking you based upon that alone to recognize

1 that if Mr. Blackseth will do this in a court of law, what will  
2 he do as a member of the Building Standards Commission?

3 And I appeal to you to reject that nomination  
4 solely for the fact that he is not the right person for the job.

5 Thank you.

6 SENATOR ASHBURN: Thank you, sir.

7 Anyone else like to testify in opposition?

8 Mr. Blackseth, you've heard a lot and so have the  
9 Members of the Committee.

10 I'd like to offer you moment or two to respond,  
11 or to give whatever information you'd like to the  
12 Committee.

13 MR. BLACKSETH: Thank you. I would like to  
14 respond.

15 I am actually a little bit stunned by some of the  
16 misrepresentations. I'm stunned by some of the  
17 misrepresentations and, quite frankly, outright lies that I've  
18 heard here today.

19 I don't even know where to start. I mean, we can  
20 go right down through the list, if you'd like.

21 For Ms. Riker, I would suggest I have never, ever  
22 suggested that we take out seating in a restaurant, ever.  
23 Categorically deny it.

24 We discussed language related to fixed tables and  
25 seatings. It was fairly technical. I won't bore you with it.  
26 But it never suggested, ever, to remove seating from a  
27 restaurant.

28 For Ms. D'Lil's comments that said you could take

1 a run at a 22-inch degree ramp and that was okay is an absolute  
2 lie. What we were talking about was an 1850s building in St.  
3 Helena that had a one-and-a-half inch rise between a patio and a  
4 floor. And we were talking about electrifying the doors so that  
5 the threshold, which wasn't a ramp -- she called it a ramp; it  
6 was a threshold -- which I agree was steep, we were trying to  
7 mitigate it with electric doors, so that you didn't have to  
8 struggle with the ramp.

9 What I told Ms. D'Lil specifically was, I don't  
10 know if that's okay; you take a look at it. I thought it was  
11 okay.

12 I never said it's okay, take a run at it. I  
13 would never say that.

14 As far as Mr. Skaff's representations, we have  
15 had a long and sordid history, and I won't go through it, but to  
16 say that I told the City of Ross or the City of Corte Madera  
17 that they didn't have to make access is categorically untrue.

18 I was brought into both of those cases after he  
19 had sued them. What came out of that was an accessible  
20 bathroom, accessible ramps that I helped them design and  
21 install. I never once told anybody that they didn't have to  
22 provide access. Those lawsuits were far after my involvement.

23 In terms of -- I could on and on. I don't even  
24 know where to start.

25 SENATOR ASHBURN: Let me ask you some specifics.

26 MR. BLACKSETH: Fine.

27 SENATOR ASHBURN: An accusation that was made,  
28 that the words "accessible to" and "usable by."

1 MR. BLACKSETH: I have no clue where that came  
2 from.

3 SENATOR ASHBURN: The removal of a portion of  
4 that.

5 MR. BLACKSETH: I never ever said that, nor would  
6 I say that. I have no clue where that came from.

7 I heard the same statement. I was dumbfounded.  
8 I have never said that.

9 SENATOR ASHBURN: The item having to do with the  
10 comment period, the 45-day comment period of the board on which  
11 you serve.

12 MR. BLACKSETH: I was instructed by staff that  
13 the appropriate way to get my comments into the record -- when I  
14 was first appointed to the board I had attempted to ask some  
15 questions and modify some language, and I was new to the board.  
16 They told me that wasn't the appropriate way to do it, and the  
17 process was to go make my comments for 45 days so everyone could  
18 look at them, the various agencies could discuss them, and they  
19 would come before the commission, which is what I did. I  
20 believe I had, I don't know, 10 or 15 comments.

21 The genesis of most of those comments were in my  
22 experience, both as an individual with disabilities and an  
23 individual as a consultant, as a knowledgeable consultant,  
24 things I had seen in the code that needed either modification in  
25 my opinion or discussion. I put them into the record, the  
26 45-day record for the various state agencies to discuss, and  
27 hopefully they would come back and say: this is worthy of  
28 change; it's not worthy of change. And we could then deal with



1 it at the commission. That's what I did.

2 Not everybody's going to agree with all of those.  
3 I disagree that they -- that they rolled back access. I think  
4 that they provide clarifications on what I see everyday being  
5 litigated, and I think need, at some level, to be discussed,  
6 whether the wording needs to be modified, or increased, or  
7 changed.

8 What I intended to do was put them out there for  
9 comment. I thought that's what I was supposed to do.

10 SENATOR ASHBURN: The Schindler Elevator case,  
11 that's the binder that's before you, and the document that was  
12 represented to us is not a deposition but instead your written  
13 statement.

14 MR. BLACKSETH: It's a declaration that I was  
15 asked to make, correct.

16 SENATOR ASHBURN: Where you indicate that in  
17 addition to being a consultant, that you are in fact a member of  
18 the state commission.

19 MR. BLACKSETH: My resume includes my -- includes  
20 my seat on the commission. I'm proud to be a member of that  
21 commission.

22 It is -- I do freely admit that I'm a member of  
23 the commission.

24 SENATOR ASHBURN: That didn't look like a resume.

25 MR. BLACKSETH: No, it wasn't. It was an excerpt  
26 from my resume.

27 But what it was intended to do was, there was  
28 some -- it's fairly technical, but there's a new technology

1 called destination elevator technology that is recognized --

2 SENATOR ASHBURN: I'm not concerned about the  
3 elevator.

4 What I'm concerned about is any involvement that  
5 you may have had on behalf of a private client wherein you  
6 utilized your state position as part of your qualification.

7 MR. BLACKSETH: I have --

8 SENATOR ASHBURN: Because one of the allegations  
9 that's been made is that you have a conflict of interest.

10 MR. BLACKSETH: I have stated that I'm a member  
11 of the commission on numerous times. It's the only one that I  
12 know, that I'm aware of, that's ever been in a declaration.

13 When I -- if these -- it was in the context of an  
14 appeals commission. I did make that statement. If it was  
15 wrong, then that's accurate, then I did do that.

16 If it comes before the Building Standards  
17 Commission, I obviously will not vote on that. If that  
18 happened, I made that declaration; that is correct.

19 SENATOR ASHBURN: The document's been presented  
20 to us, and we're going to retain and make copies, then we'll  
21 return it to you, sir.

22 Other questions?

23 SENATOR CEDILLO: Just in this instance, in your  
24 statement, you're a consultant for the company. You make a  
25 statement about your qualifications. You state that you're also  
26 on this commission.

27 Did that matter come before you?

28 MR. BLACKSETH: No.

1                   SENATOR CEDILLO: Do any of those matters come  
2 before you?

3                   MR. BLACKSETH: If they do in the future, I would  
4 exclude myself. They have not as of yet.

5                   SENATOR CEDILLO: Have any of them come before  
6 you?

7                   MR. BLACKSETH: No.

8                   SENATOR ASHBURN: My recommendation is this. I  
9 think we should put this over a week. Your time isn't until  
10 March, the third week in March. That will give you an  
11 opportunity to submit in writing responses to some of the things  
12 that you've heard today that warrant response.

13                   I would point in particular to the Schindler  
14 documents.

15                   That will also give time for Rules Committee to  
16 take a look at that in the context of the conflict of interest  
17 allegation, because I think that's a serious matter and we ought  
18 to resolve it, or at least have clarity on that point before we  
19 go forward.

20                   I'm recommending one week, vote only. And in the  
21 interim time, that this be answered in writing.

22                   And naturally, anyone who would want to submit  
23 anything to the Rules Committee, we would welcome that as well.

24                   SENATOR DUTTON: I'm particularly interested in  
25 what you've been doing in your private business during this last  
26 year.

27                   I'm not so much concerned about conflict of  
28 interest before a year ago, but I am kind of concerned about the

1 appearance of inappropriateness over this last year.

2 I don't think it was intentional, but I am  
3 interested in the types of activities, either as a consultant in  
4 litigation or as a professional consultant.

5 I'm reminded that this is supposed to be a public  
6 member, which is not supposed to be someone who has any kind of  
7 professional expertise, like a contractor, things of that  
8 nature. So, I am a little concerned that we may not have the  
9 right -- not that you're not qualified -- just as public member,  
10 I have do have some concern about it.

11 MR. BLACKSETH: What in particular do you want me  
12 to address?

13 SENATOR DUTTON: Well, I'm just curious, have you  
14 been actually hired as a contractor, as a consultant over the  
15 last year, last eleven months? Have you actually been  
16 continuing to be employed as a consultant and a contractor  
17 regarding issues that you're involved with on this commission?

18 MR. BLACKSETH: I don't believe there's anything  
19 like that that I'm aware of.

20 SENATOR DUTTON: Over the last eleven months.

21 MR. BLACKSETH: None that I'm aware of.

22 SENATOR DUTTON: So, it's just prior to that that  
23 these activities that you were involved in as a contractor.

24 MR. BLACKSETH: Well, my business every day of  
25 the week is -- is access consulting. My resume clearly shows  
26 about ten organizations I'm involved with, including the  
27 Building Standards Commission.

28 But I don't represent myself as a Building



1 Standards commissioner out as a consultant.

2 SENATOR DUTTON: But you're earning income that  
3 way; right?

4 MR. BLACKSETH: To this day, that's what I do.

5 SENATOR ASHBURN: In the Schindler case, what you  
6 just stated does not appear to be the same as what you just  
7 stated. I mean, you utilized your position as a commissioner in  
8 the document that was partially read to us precisely for the  
9 purposes of stating your qualification.

10 MR. BLACKSETH: The question in the declaration,  
11 and I'll just describe them for you, was before the Access  
12 Appeals Board in San Francisco. The question -- and I'll put  
13 it in writing for you -- but the question was about if they felt  
14 this destination technology, which wasn't in the building code,  
15 was going to come before the commission. I stated I was a  
16 member of the commission and thought it would come before the  
17 commission.

18 SENATOR ASHBURN: I think it's very, very  
19 important that you put this Schindler potential conflict into  
20 the context in which it occurred.

21 MR. BLACKSETH: Okay, I will do that.

22 SENATOR ASHBURN: I think it's very important for  
23 you, sir, to be as specific as possible.

24 MR. BLACKSETH: We'll do that.

25 SENATOR ASHBURN: And I think Senator Dutton  
26 raised a very good question. You've been a member of the  
27 commission for eleven months. And so, if there were a conflict,  
28 it would be in your business activities and your official

1 capacity during that period of time.

2 MR. BLACKSETH: Fair enough.

3 SENATOR ASHBURN: And some of the things that we  
4 may have heard today relate, perhaps, to cases, lawsuits,  
5 testimony that was given at a prior period of time.

6 But I think we're most concerned about your role  
7 as a commissioner and any potential for conflict of interest.

8 MR. BLACKSETH: Okay, I can do that.

9 SENATOR ASHBURN: Is there any lack of clarity on  
10 what we're looking for?

11 MR. BLACKSETH: I don't think so, but if I need  
12 some, who would I contact?

13 SENATOR ASHBURN: Nettie Sabelhaus.

14 MR. BLACKSETH: I will do that.

15 SENATOR ASHBURN: Anything further?

16 Thank you all for being here on this. We  
17 appreciate your patience with us, and appreciate your testimony.

18 We will be back one week, vote only, but there  
19 will be written documents, and specifically a written document  
20 from the nominee.

21 If you have anything to submit to the Rules  
22 Committee, please do so through Nettie.

23 Vote only means no further testimony at the next  
24 hearing.

25 [Thereupon this portion of the  
26 Senate Rules Committee hearing  
27 was terminated at approximately  
28 4:15 P.M.]

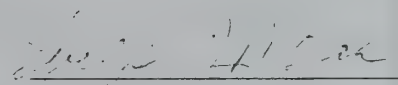
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 10<sup>th</sup> day of January, 2007.

  
EVELYN J. MIZAK  
Shorthand Reporter

## APPENDIX

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# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger  
Governor

Linda S. Adams  
Secretary for  
Environmental Protection

February 28, 2007

Senate Rules Committee

MAR 01 2007

## Appointments

The Honorable Don Perata, Chair  
Senate Rules Committee  
State Capitol, Room 205  
Sacramento, California 95814

Dear Senator Perata:

Thank you for the opportunity to appear before the Senate Rules Committee on March 7, 2007. It is an honor to serve as Secretary of the California Environmental Protection Agency (Cal/EPA) in Governor Schwarzenegger's Administration. It was a pleasure to work with the Legislature in 2006 on major legislation to protect the environment, including SB 1379 (Perata), which creates a statewide biomonitoring program, SB 1368 (Perata), which reduces utility emissions of greenhouse gases (GHG) from coal, AB 32 (Nunez/Pavley), the Global Warming Solutions Act, and AB 1953 (Chan), which sets a standard to significantly reduce lead in drinking water.

As Secretary, I am deeply committed to fulfilling Cal/EPA's mission—to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic vitality. I am dedicated to carrying out the environmental policies and goals of the Schwarzenegger Administration.

I am pleased to respond to the questions in your letter of February 9, 2007.

*1. What are your goals and objectives as Secretary of Cal/EPA? What do you hope to accomplish during your tenure? Please be specific.*

I hope to accomplish many objectives during my tenure as Secretary of Cal/EPA.

### Air Quality

I am committed to aggressively reducing air pollution in California. The Air Resources Board (ARB) and the air districts have made and are making great strides in this area, but much more work is needed to achieve both the federal and state air standards and reduce the health risks posed by toxic air contaminants. This year and next year the ARB and the air districts are developing the updated State Implementation Plans to achieve the federal standards for ozone and particulate matter 2.5 microns and smaller (PM<sub>2.5</sub>). I support this challenging and critical work.

With increased trade, a key part of reducing air pollution is reducing emissions from goods movement sources such as trucks, locomotives, and ships. In November of last year, I wrote U.S. Environmental Protection Agency (U.S. EPA) Administrator Steve Johnson urging U.S. EPA to reduce air pollution from federally-regulated sources by adopting more stringent federal regulations and incentive programs (attached). In January of this year, I approved the joint Business, Transportation and Housing Agency and Cal/EPA Goods Movement Action Plan (GMAP). As the State works to address our goods movement infrastructure needs, it is critical to ensure that there is simultaneous improvement in air quality. For that reason, the ARB's Emission Reduction Plan for Ports and Goods Movement in California (April 2006) is a critical part of our GMAP. In the GMAP, I am working with the ARB to develop a proposal to allocate the \$1 billion in Proposition 1B funds for emission reduction projects related to the movement of freight in a manner that reduces community health risk in all four of the goods movement corridors (Bay Area, Central Valley, Los Angeles/Long Beach/Inland Empire, and the San Diego Border area).

### **Biomonitoring**

Another high priority is to implement SB 1379 (Chapter 599, Statutes of 2006), which requires Cal/EPA to work with the California Health and Human Services Agency to implement the California Environmental Contaminant Biomonitoring Program. We currently envision the program planning and implementation to be phased in over a five-year period. The first year will be devoted to planning efforts and to convening the nine-member science guidance panel.

### **Brownfields**

The increased cleanup and reuse of urban brownfields will encourage infill development and discourage loss of farmlands and open space. I am working with the Department of Toxic Substance Control (DTSC) and State Water Resources Control Board (SWRCB) to expedite the cleanup of brownfields and return more properties back to productive use.

### **California-Mexico Border**

As one of the regional co-chairs of the Border 2012 Program, I have held numerous meetings with my counterparts from Baja, California, the U.S. EPA, and their Mexican counterparts to address the most pressing border issues, which include water pollution, air quality, and solid and hazardous waste management. We recently re-established the Border Affairs Unit at Cal/EPA to act as a central coordinating body to address California-Mexico issues. Last year, legislation was enacted (AB 3021, Chapter 621, Statutes of 2006) to establish the California-Mexico Border Relations Council. I am Chair of the Council, and along with the other cabinet secretaries, we will coordinate activities of state agencies related to cross-border programs and establish appropriate policies for sharing of data on these issues.



### **Climate**

A top priority for the Governor and therefore one of my top priorities while serving as Cal/EPA Secretary, is to coordinate those activities which will enable California to meet the overall goal of reducing GHG emissions to 1990 levels by 2020. Achieving GHG emission reductions in California through ARB's implementation of AB 32 (Chapter 488, Statutes of 2006) and AB 1493 (Chapter 200, Statutes of 2002) is essential. Outside the ARB regulatory process, there are important activities by other state agencies which are critical to meeting the 2020 requirement. As Chair of the Climate Action Team (CAT), I will coordinate the activities of all state agencies to ensure non-duplication and avoid cross purposes. All state agencies need to do their part to reduce GHG emissions.

### **Cradle to Cradle/Green Chemistry**

Another priority will be implementation of a program to reduce toxic substances in commerce and waste streams through substitution and redesign of industrial products and processes. This will include DTSC's continued voluntary collaboration with the chemical industry on pollution prevention, continued outreach and education on cradle to cradle/green chemistry, and remove toxic ingredients from plastics found in the marine environment. I am asking DTSC to take the lead on developing recommendations, in consultation with other agencies, industry and affected stakeholders, on a State cradle to cradle chemicals management policy.

### **Enforcement**

Continued implementation of Cal/EPA's Enforcement Initiative is also a high priority, and I have embarked on the second phase of the agency-wide enforcement initiative. Enforcement of environmental laws helps protect Californians from the adverse effects of environmental pollution. Furthermore, strict environmental enforcement prevents polluters from achieving an unfair advantage over competitors who comply with environmental laws. To ensure fair and consistent enforcement of environmental laws and regulations, Cal/EPA is working with its boards, departments, and office (BDOs) to make rules and permits easily understandable and enforceable, to target enforcement resources on priority areas that pose the highest environmental risk, to ensure consistency in enforcement across the BDOs, and to develop a common data system and improved information management for measuring our enforcement progress.

### **Environmental Justice**

I am committed to ensuring environmental justice (EJ) in California. I will ensure implementation of the Cal/EPA Environmental Justice Action Plan, with several important pilot projects and the development of cumulative impact guidelines and precautionary approach guidelines. I recently announced a new grant cycle for the Cal/EPA EJ Small Grants programs. I also plan to develop a tribal policy to consult with

California Indian tribes when undertaking projects that may affect those tribes and their lands.

### **Integrated Pest Management**

Cal/EPA supports a healthy environment in daycare centers and schools. I am supporting the Department of Pesticide Regulation's (DPR's) efforts to expand its successful implementation of the Healthy Schools Act by sharing integrated pest management techniques that emphasize pest prevention and least toxic pest management in schools, daycare centers, and urban communities.

### **Ocean Protection Council**

As a scuba diver and a long-time resident of California who has always loved the ocean and coast, I am excited to be serving on the OPC created by the Legislature. We are taking bold steps to protect the ocean. In February, the OPC approved a resolution to reduce the sources of marine pollution. The resolution encourages increased recycling and enforcement, seeks innovative methods to reduce plastic waste, promotes expanded watershed-based cleanups, and promotes environmental education.

### **Recycling/Waste Management**

Under my tenure, we have successfully reached our 50% waste diversion goal. I will work with the California Integrated Waste Management Board (CIWMB) to continue our current waste reduction and recycling activities beyond the 50% diversion goal and reduce the amount of methane, a GHG, in our landfills.

### **Water Quality**

I have devoted much of my career to developing solutions to water quality problems in California, and I care deeply about this area of environmental protection. In addition to extensive legislative experience, my recent tenure as a member of the Central Valley Regional Water Quality Control Board (RWQCB) is serving me well as I work with the State Water Resources Control Board (SWRCB) and the RWQCBs on water quality issues.

Serious water quality problems persist in many areas of the state, including contaminated groundwater basins, impaired rivers and streams, beach closures, and ocean pollution. I am working closely with the SWRCB to develop goals and a strategy to improve water quality, with the objective of making the waters of the State drinkable, swimmable, and fishable.

*2. Please describe your view of the role of the Office of the Secretary of Cal/EPA in relation to the independent boards, departments, and offices within the agency. How do you ensure the independence of the boards, departments and offices within the agency while also ensuring Administration policies are implemented?*



In my role as Secretary of Cal/EPA, I coordinate and supervise the State's environmental protection programs—focusing on collaborative efforts with the BDOs to integrate “cross-media” efforts, enforce laws consistently and fairly, and measure and report results. Personally, I believe communication, cooperation, and collaboration are the foundation of my agency as well as the most effective ways to fulfill the State's high environmental standards.

I view my role as the State's advocate for environmental protection and for the BDOs within my agency. To carry out the duties assigned to my office, I meet regularly with the respective chairpersons, executive directors, board members, and program experts so we can discuss policy matters, identify mutual objectives, and take coordinated, effective actions—both jointly and as independent organizations—to restore and protect California's environment. My role is to set overall policy direction and to monitor and assist the BDOs in administering the specific laws and programs assigned to them. For example, I will soon announce the second phase of the agency-wide enforcement initiative. With this broad direction, the Cal/EPA organizations will form inter-departmental teams to develop and administer shared actions while also taking department-and board-specific steps relating to enforcement.

For example, one of my cross-agency responsibilities is to ensure that all the agencies implementing laws or regulations within the jurisdiction of Cal/EPA take consistent, effective, and coordinated compliance and enforcement actions. To fulfill that responsibility, I am establishing uniform, cross-program enforcement policies and program governance structures, through the Cal/EPA Enforcement Initiative.

I also serve on several commissions, boards, and panels established in law. In this capacity, I represent the Cal/EPA organizations. I am a strong voice for the independent programs that protect our air and water, reduce waste and toxic chemicals, and assess risk and set health-based standards for state and local regulatory programs. This year, my duties have expanded with the enactment of the OPC and the California-Mexico Border Relations Council. As the Chair of the newly-established California-Mexico Border Council, I will have added responsibilities to bring together not only air, water, and solid and hazardous waste programs, but also other areas of state government involved in our shared border with Mexico.

*3. How do you monitor the quality of enforcement efforts within your agency? How do you measure improvements?*

One of the early priorities of the Schwarzenegger Administration was for Cal/EPA to conduct a thorough assessment of the enforcement of our environmental laws. The findings of this evaluation and our action to implement its recommendations were reported to the Legislature last February (“Status Report on the Implementation of the Cross-Agency Enforcement Initiative”).

While we can measure program performance in terms of enforcement activities (numbers of inspections and numbers of enforcement actions), we should measure the success of our enforcement programs by determining improvement in environmental quality and increasing rates of compliance. What we measure now is activity; we should also measure the results of this activity.

Since the Cal/EPA enforcement assessment found that the state and local government enforcement agencies do not regularly or systematically track information about the results of their enforcement activities, we established cross-agency Enforcement Initiative Teams that are working on developing a common data system and on improving information management. We are also working on establishing a baseline so that we can begin to measure improvements in compliance and environmental results.

To further the work that has already been done on the Enforcement Initiative, I am establishing a cross-media Enforcement Performance Review Team. This team will consider methods to evaluate and measure performance which will provide a more meaningful way to see if our environmental regulatory programs are successful. This will allow us to relate program efforts to real improvements in public health and the environment, using compliance rates and environmental indicators.

## **Water Resources**

*4. The Board's water rights program oversees the enforcement of water rights to protect the public interest as well as vested water rights, water quality and the environment. The program has been funded by fees paid by water rights holders.*

*A recent appellate court decision held that the fees used to fund the water rights program may be invalid, calling into question the ability of the state board to fund the water rights program adequately.*

*How will your agency address this issue to ensure that the water rights program is fully funded?*

The Third District Court of Appeal held that the statute establishing the water rights fee system is constitutional and valid. Although the Court directed the SWRCB to revise the regulations that set particular fee rates, the Court's reasoning raises significant legal issues implicating many regulatory fees (also known as "Sinclair" fees, in reference to a key California Supreme Court decision). Accordingly, SWRCB and the State Board of Equalization jointly filed a Petition for Review with the California Supreme Court on February 26, 2007. Cal/EPA is working closely with the Administration and other state



agencies to evaluate all available options to ensure that these vital regulatory programs are maintained.

*5. In the confirmation process, the Rules Committee has heard testimony from regional water board members regarding the regional boards' lack of sufficient staff resources to implement and enforce water quality laws.*

*For example, it has been reported that the Central Valley Regional Water Quality Control Board, which encompasses 60,000 square miles and roughly 40% of the state's total area, has less than 10 staff positions to oversee compliance and enforcement of water quality laws. This creates uncertainty for businesses lawfully operating, and allows those who violate the laws to continue to do so.*

*Do you believe the state and regional water boards can enforce laws adequately at their present staffing levels? What actions have you taken to provide needed resources to implement the law?*

The SWRCB and the nine RWQCBs preserve and enhance the quality of the State's water resources. Collectively, \$834.6 million and almost 1,600 employees are assigned to this very important function. For the Central Valley RWQCB, more than half of the 257 plus regional board employees perform compliance, inspection, and enforcement-related duties.

As part of the agency-wide enforcement initiative, the SWRCB and the RWQCBs are taking several steps to improve enforcement of water quality laws. SWRCB has created an office of enforcement, which is working closely with the RWQCBs to implement a consistent approach for water quality enforcement and to prioritize enforcement activities more systematically. Similarly, each RWQCB has established its own enforcement office. These enforcement offices serve as in-house experts to augment and assist all of the water quality programs in investigating non-compliance and pursuing administrative, civil, and criminal penalties for violations. The SWRCB and RWQCBs have also implemented a uniform process to prioritize and track their enforcement efforts.

SWRCB has begun collecting and evaluating the RWQCBs' enforcement information. With this data, the SWRCB and RWQCBs will continually reassess their internal allocation of staff and funds, and adjust those so enforcement actions are strengthened in each region and statewide. SWRCB board members have directed its executive managers to make enforcement a high priority and to ensure RWQCBs have the necessary resources when internal allocations are made. SWRCB also continues its on-going dialogue with the U.S. EPA to ensure that California receives its fair share of

funding on a national level, particularly for enforcement of water quality laws, standards, and permits.

6. *There have been highly publicized recent reports on the serious threat posed to public health from E-Coli outbreaks in produce. Those regional boards in affected areas have provisions in their basin control plans that identify E-Coli as a pollutant of concern and outline measures to reduce or eliminate potential sources of E-Coli. Yet, most of those provisions currently are not implemented or enforced.*

*What actions have you taken to ensure the state and regional water boards increase their monitoring and enforcement efforts to prevent new e-coli outbreaks?*

Waterborne pathogens are one of multiple possible pathways for *Escherichia coli* 0157:H7 (*E. coli*) contamination of leafy greens. Cal/EPA, the SWRCB, and the RWQCBs are taking that potential pathway very seriously and taking specific actions in the areas of monitoring, discharge restrictions, and enforcement. The Department of Health Services (DHS) is the lead on this issue and is exploring all other pathways of contamination. Addressing the public health threat posed by *E. coli* outbreaks requires the coordinated work of multiple State agencies, including the DHS, Cal/EPA, the SWRCB, the RWQCBs, the Department of Food and Agriculture, the Department of Fish and Game, and various federal agencies. Fully addressing the problem will require us to improve our understanding of how certain crops become contaminated with *E. coli*.

*Monitoring:* The Central Coast RWQCB's Ambient Monitoring Program collects regional data. The RWQCB is adding routine monitoring of *E. coli* to the monitoring regime. Similar ambient monitoring for *E. coli* is being incorporated elsewhere in the State. The Central Coast RWQCB has also imposed additional monitoring requirements on food processing facilities that reuse processed wastewater to irrigate food crops.

*Enforcement:* In addition to enhanced monitoring, I have also supported the SWRCB's expansion of their enforcement programs to address *E. coli* contamination. While the Committee's question notes that some RWQCB plans already identify pathogens as pollutants of concern, the measures to control these pathogens have only been set forth generally and have not been directly enforceable. As explained below, the RWQCBs have taken and are taking a number of steps to make these pathogen controls directly enforceable.

*E. Coli Total Maximum Daily Load (TMDL):* In June 2006, staff released the Salinas River Watershed *E. Coli* TMDL Preliminary Project Report (the first public draft of the TMDL) after conducting two years of sampling. A TMDL establishes the maximum daily amount of a pollutant that can be in a water body without exceeding water quality objectives. In other words, the TMDL is an enforceable regulatory tool designed to



achieve the water quality necessary to protect human health and the environment. TMDL studies of several additional watersheds are in progress, including DNA-typing to help identify sources of pathogens. These TMDLs will provide a concrete basis for enforcing pathogen controls.

*Conditional Waivers for Irrigated Lands:* Several RWQCBs have adopted a regulatory program for irrigated agriculture during the last four years. The conditional waivers of waste discharge requirements for irrigated agriculture require management practices to prevent pathogens from leaving fields and contaminating surface water through runoff and tailwater discharges. The conditions contained in the waiver require management practices and water quality monitoring to demonstrate that water quality is not being adversely affected. If exceedances of applicable water quality objectives are found, the dischargers must report the results to the RWQCBs and implement management practices to correct identified problems. These orders improve the RWQCB's ability to protect surface water from *E. coli* and other pathogens.

*Grazing:* The Central Coast RWQCB has adopted several TMDLs that require nutrient management plans to prevent pathogen runoff from grazing areas.

*Dairy Farms:* The Central Valley RWQCB is developing waste discharge requirements for dairies that will likely prohibit the discharge of dairy waste to surface waters, including waste containing *E. coli*. (Under current regulations, confined animal facilities may not discharge to surface waters except in extreme storm events.)

*7. How are you responding to local concerns about water quality problems created by prison overcrowding? With your statewide perspective, what advice or counsel can you give to regional boards and the public about this problem?*

I support the efforts of the RWQCBs throughout the State to address wastewater discharges at prisons. I expect the RWQCBs to continue to take actions that will protect the public health and water quality from all waste discharges, including those from California's prisons—whether overcrowded or not. The Porter-Cologne Act does not differentiate between a city's sewage treatment plant or a prison's wastewater treatment system. The waste discharge requirements (WDRs) must implement the relevant water quality control plans.

### **Integrated Waste Management**

*8. The Integrated Waste Management Act requires local agencies to reduce, recycle, or compost 50% of their solid waste by the year 2000. The law is silent on actions that local agencies, and the state, should take to reduce or reuse solid waste after that date.*

*The Administration's Climate Action Report suggests that increasing the reduction, recycling, and composting of waste will help reduce climate emissions and provide other benefits.*

*What actions does your agency support to increase waste reduction and recycling beyond the 50% diversion requirement?*

I will work with the CIWMB to continue our current waste reduction and recycling activities beyond the 50% diversion goal and reduce the amount of methane, a GHG, in our landfills. Increasing our waste reduction and recycling efforts reduces GHG emissions and can help deter climate change. Transforming materials in the waste stream into marketable products reduces reliance on energy intensive raw material extraction and production and also stems the production of methane. I also continue to champion the idea of harnessing the State's purchasing power by focusing on environmentally preferable products so that markets for recycled content products will be fostered.

## **Toxic Materials**

*9. In recent years, there has been increasing discussion about so-called "green chemistry" and the notion of ensuring that chemicals are safe before they are introduced into the environment (as opposed to cleaning them up or over-regulating them after they have been introduced).*

*What are your views on green chemistry? Are there ways to better protect the environment and reduce costs to businesses by adopting a priori mechanisms to determine the safety of hazardous materials? If so, please describe.*

I am supportive of the concept of green chemistry. I believe that California has the opportunity to lead the nation in moving to cradle to cradle/green chemistry concepts, balancing the needs of the environment with those of the economy through a collaborative effort with industry and affected stakeholders to reduce toxic substances in commerce and waste streams. This will allow us to focus our efforts on those chemicals of the highest risk to the people of California.

I will be working closely with DTSC, in collaboration with the Cal/EPA BDOs and other state agencies, to support the continued voluntary collaboration with the chemical industry on pollution prevention, continued outreach and education on cradle to cradle/green chemistry and remove toxic ingredients from plastics found in the marine environment. I am asking DTSC to take the lead on developing recommendations, in consultation with other agencies, industry and affected stakeholders, on a State cradle to cradle chemicals management policy.



To date, much of our environmental protection emphasis has been to reduce and control pollutants, wastes, and discharges. Recent attention has begun to focus more directly on the relationship between health effects and exposures to chemicals, both in the workplace and in our day-to-day lives. I believe we need to develop a coordinated, comprehensive strategy to reduce exposure to dangerous substances, encourage cleaner and less polluting industrial processes, and encourage manufacturers to take greater responsibility for the products they produce. In order for California to develop that strategy, I have directed DTSC to analyze the three leading international chemical laws in partnership with the University of California, to develop a comprehensive web resource on international chemical laws, to develop a prioritization of chemicals of concern and to develop recommendations, in consultation with California industry and affected stakeholders, on a State cradle to cradle chemicals management policy.

We must have an understanding of the toxicological effects of a majority of chemicals in commerce. For California, it will be important to build upon the availability of this information as generated by current and proposed mechanisms to protect public health and the environment and to reduce costs to businesses. With this information, chemists will have the ability to significantly reduce public health and environmental impacts as well as costs by redesigning product formulations and manufacturing processes. This information will also allow us to collaborate and gain the full benefit of each others work and foster pollution prevention through minimizing and eliminating environmental threats posed by chemicals used and sold in California.

*10. Californians have been told by Cal/EPA and the Department of Toxic Substance Control that they should no longer dispose of used batteries, fluorescent light bulbs, and other so-called "universal waste" in their garbage cans. Is it the state's responsibility to provide public information on where and how those materials should be properly recycled or disposed? If so, what actions are you taking to provide the public with easy and workable opportunities to recycle or dispose of these materials properly?*

Yes, it is the State's responsibility to provide public information, and DTSC and CIWMB are working with the Department of Conservation on a statewide Recycling Web Portal project. This portal will help people locate convenient recycling locations for a wide variety of wastes, including universal wastes. CIWMB also maintains a searchable database for electronic and other universal waste recycling locations. DTSC has provided extensive education and training for auto dismantlers and appliance recyclers on the management of mercury switches, a type of universal waste. Finally, DTSC is working with the electric utilities to disseminate information about proper disposal of fluorescent light tubes.

In addition to the above, we have a number of other activities that will help the public recycle or properly dispose universal wastes. DTSC and CIWMB have developed the California Take-It-Back Partnership, a collaborative effort between government and

business to provide safe, convenient collection opportunities for batteries, fluorescent lamps, and electronic devices. DTSC and CIWMB also convene bi-monthly Household Hazardous Waste Information Exchange meetings to share information and best practices related to the statewide development of collection and recycling infrastructure. Annually, CIWMB provides funding to local governments for universal waste planning and infrastructure development. Finally, DTSC and CIWMB are working with manufacturers and other stakeholders to foster producer responsibility and further encourage manufacturers to take responsibility for the products they produce.

### **Scientific Activities**

*11. Your predecessor directed boards, departments, and offices within the agency to assess their scientific programs and to make recommendations for improvements. We understand that the assessment and recommendations have been completed but that no final report has been made available.*

*What is the status of this report? Is it completed, and if so, may we have a copy? If not, when will the report be complete and available?*

My predecessor, Dr. Alan Lloyd, in his legislative confirmation process as Secretary, committed to "... evaluate and make recommendations on the role science plays in regulatory matters across all BDOs." Soon after making that commitment, he directed that a steering committee for science (SCS) be formed, with representatives from each of Cal/EPA's BDOs. The purpose of the SCS was to: 1) Characterize the quality and role of science in supporting decision-making within Cal/EPA; and 2) Identify ways in which the quality and role of science can be enhanced in the decision-making process within the BDOs.

The SCS took a dual approach in addressing these objectives. They sent a questionnaire to the upper management of all BDOs requesting information regarding the history (background and development) of selected major programs, along with the role of science and scientific procedures in the development and implementation of those programs. In parallel, SCS disseminated a web-based, agency-wide survey (e-survey) to all Cal/EPA staff for identifying gaps and ideas to improve the scientific basis for decisions and activities pursued all across Cal/EPA. The SCS compiled and analyzed information obtained from both the questionnaire and e-survey and produced a lengthy draft report with findings and recommendations.

The effort was both ambitious and fruitful. When released, the final report will offer recommendations in key areas such as enhancing consistency in risk assessment and instituting a systematic approach for addressing newly identified environmental challenges and cross-media issues. I have asked my senior staff to review it once more



and am committed to the release of this report after conclusion of our internal review process.

### **Global Warming/Greenhouse Gas Emission Reductions**

*The Administration has made greenhouse gas (GHG) emission reductions a major environmental priority. It also has stated that state government must "lead the way" on cost-effective greenhouse gas emission reductions.*

*You are the chair of the Administration's inter-agency "Climate Action Team" which, according to the various executive orders establishing it and describing its responsibilities, is the entity in state government coordinating climate change activities and overseeing implementation of the Administration's Climate Action Plan.*

*Cal/EPA has been actively involved in implementation of the Climate Action Report, executive orders, and enactment of the Global Warming Solutions Act of 2006 (AB 32). However, it is less clear what actions are being taken by other members of the Climate Action Team to meet their GHG emission reductions targets. (For example, according to the plan, the State and Consumer Services Agency/Cal/EPA is tasked with achieving 500,000 metric tons (MT) in emission reductions in 2010 and 1.8 million MT in 2020 from green buildings.)*

*12. Please describe the actions taken by each of the Climate Action Team members to reduce GHG emissions in their sectors/activities, the status of their compliance with the emissions reduction targets under the Administration's Climate Action Plan, and the metrics used to measure actual emission reductions.*

Very briefly, under the coordination of the CAT, ten state agencies, boards, and commissions have developed measures to reduce GHG emissions or mitigate climate change.

These measures include:

- ARB implementation of the Global Warming Solutions Act including: Initiation of a regulatory process to establish a GHG emission inventory; Initiation of the regulatory process for the adoption of early actions; Appointment of the Economic and Technology Advancement Advisory Committee; Appointment of the Cal/EPA Advisory Committee on Environmental Justice (CEJAC); and Continued defense of the vehicular emissions of GHG regulation.
- Public Utilities Commission implementation of SB 1368 (Chapter 598, Statutes of 2006), with the adoption of the Emissions Performance Standard regulation applicable to investor-owned utilities. The California Energy Commission (CEC)

implementation of SB 1368, with the initiation of a regulatory process to adopt an emission performance standard applicable to municipal utilities by June 2007.

- Secretary of Cal/EPA appointment of an expert Market Advisory Committee (MAC). The MAC will make recommendations to the ARB on the design of a market-based program for California by June 30, 2007.
- The Governor's signing of Executive Order S-01-07, which directs the ARB to consider a Low Carbon Fuel Standard for transportation as an early action strategy to reduce GHG emissions.
- The Department of General Services' (DGS) action to join the Climate Action Registry. DGS will report GHG emissions from state facilities which will provide a basis for reducing these emissions.
- The CEC implementation of AB 1007 (Chapter 371, Statutes of 2005), with the initiation of a process to develop a state plan to increase the use of alternative fuels for transportation by June 30, 2007.
- The Department of Water Resources evaluation of the State Water Project's energy generation and use.
- The Department of Forestry and Fire Protection collaboration on a new forestry protocol for urban forestry.
- The CEC initiation of a program to evaluate carbon capture and sequestration.
- The CAT has three focus area subgroups on scenario analysis, economic analysis and energy coordination. Last month the CAT initiated eight new focus area subgroups to develop implementation, mitigation and adaptation strategies:
  - Forestry
  - Water/energy
  - Green Buildings
  - State Fleet
  - Smart Growth/local government
  - Agriculture
  - Landfills
  - Cement

AB 32 authorized the ARB to develop a GHG emission inventory and a metric system for evaluating emission baselines and reductions. Until the emission inventory and protocol system are adopted by the ARB, emission reductions can only be estimated. This effort is underway and ARB is coordinating with the other departments to assure that actual emission reductions can be accurately captured. Currently the best method for reporting emission reductions is by participating as a member of the California Climate Action Registry and reporting emission activities consistent with their protocols.

I also have been working closely with the Secretary of the California State and Consumer Services Agency on the green buildings initiative. We are cosponsoring the "Green California Summit and Exposition" on March 13, which will be the first event in



the nation to focus exclusively on state and local government efforts to reduce energy consumption.

*13. Who should be held accountable for other agencies' actions to meet climate targets—you, as the chair of the team, or the agencies themselves? What mechanisms have you put in place as chair of the team to quantify and ensure progress in reducing emissions?*

Both myself as the Chair of the team and the individual agencies with statutory authority. I am responsible for leading the CAT and coordinating the State's climate programs. My priorities include facilitating coordination with all of the members of the CAT and the ARB as they implement AB 32; develop mitigation and adaptation strategies; and coordinate with regional and multi-state GHG emission reduction efforts. Individual agencies are responsible for development and implementation of GHG emission reduction strategies.

The CAT meets monthly and has become something akin to a board of directors that can review progress, guide actions, share methods, and muster resources to achieve climate targets.

*14. The Climate Action Team exists as an administrative creation, but not as a statutory or budgetary entity. Who staffs the Climate Action Team and other GHG activities at the agency? Are those positions budgeted for that purpose in the budget, or are positions designated for other purposes being used to staff the team?*

The Office of the Secretary has a number of responsibilities for the State's climate program. It is a priority of the Governor. Therefore, a significant portion of my time, the undersecretaries' time, and other senior staff are spent on climate related activities. The Assistant Secretary of Climate Activities and her assistant spend full time on GHG emission reduction activities, including coordinating the CAT, and were fully funded in last year's budget.

*The Global Warming Solutions Act of 2005 (AB 32) requires the Air Resources Board (ARB) to adopt and implement rules and regulations "to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions."*

*It prohibits the board from adopting "Market-based compliance mechanisms" unless it has considered their effects on communities adversely impacted by air pollution, designed them to prevent increases in toxic air contaminants or criteria air pollutants, and met other conditions.*

*It further prohibits the board from adopting a so-called "cap and trade" market based system unless an additional series of conditions are met, and specifies that no such regulations shall be in effect until after 2012.*

*Last fall, several days after AB 32 was signed, the Administration issued an executive order directing you and the ARB to bring both regulatory and market-based measures forward on an "expeditious and concurrent basis."*

*15. Please explain how the "expeditious and concurrent" language in the executive order is consistent with the language of AB 32. How do you reconcile them?*

Under the provisions of AB 32, the ARB is required to adopt a scoping plan by January 1, 2009 that must identify and make recommendations on direct emission reduction measures, alternative compliance mechanisms, market-based compliance mechanisms, and incentives that the Board finds are necessary or desirable to achieve the AB 32 goals. Although the regulatory measures are mandatory and the market measures are discretionary, they are on a concurrent timeline. That is, the regulatory measures are required to be adopted by January 1, 2011, and if the ARB recommends in its scoping plan to adopt market measures, the market measures also must be adopted by January 1, 2011. If the ARB moves forward on both market and regulatory, they would be adopted in the same timeframe.

Therefore, given that the regulatory and market would move forward on a concurrent basis under the provisions of AB 32, the practical effect of the executive order is to not only move forward on a concurrent basis, but also to move forward expeditiously on regulatory and market measures. AB 32 also requires the ARB to adopt by June 30, 2007, a list of discrete early action GHG reduction measures and to adopt regulations to implement those measures by January 1, 2010.

*16. The law designates the ARB as the agency that oversees AB 32 implementation, but you are the lead on this issue rather than the chair of the ARB. How do you see your role in implementing this law in relation to the ARB? What is its role?*

AB 32 requires the ARB to approve a scoping plan and adopt regulations to achieve the AB 32 goals of reducing emissions to 1990 levels by 2020. The Secretary for Environmental Protection is required by statute to coordinate GHG emission reductions and climate-change activities in state government to eliminate duplication and conflict. I fulfill that duty through the activities of the Climate Action Team. This role was recognized in AB 32.

*17. As noted above, the law authorizes the use of market-mechanisms subject to specific conditions. It further authorizes ARB to adopt a schedule of fees on entities subject to the law.*



*Thus far, the Administration has chosen to fund the program through special funds and not fees. Thus far, it has chosen not to propose any market-based compliance mechanisms other than "cap and trade," even though there are numerous other mechanisms that may be used to promote emission reductions. The cap and trade process imposes caps on smokestack industries and allows them to trade emission credits within those limits.*

*Does the Administration oppose using the fee authority and mechanisms under the law to achieve climate goals outlined in law? Why has it limited its consideration of market-based compliance mechanisms only to cap and trade?*

AB 32 authorizes the ARB to adopt a fee schedule by regulation. However, prior to the adoption of the GHG emission reduction plan it would be premature to levy fees. The ARB believes it prudent to determine which sectors will be considered significant sources of GHG emissions before determining a permanent funding system including the option of levying fees.

Regarding market mechanisms, the Administration has not limited its consideration of market-based mechanisms to only cap and trade. The Administration supports consideration of a suite of options that reduce climate change emissions—market mechanisms as well as regulatory and incentive programs.

*Environmental justice is the process of developing and conducting public health and environmental protection programs, policies, and activities in a manner that promotes equity and affords fair treatment, accessibility, and protection for all Californians, regardless of race, age, culture, income or geographic location. The Administration has pledged its support for environmental justice programs.*

18. *What is the status of the Environmental Justice Action Plan proposed by the Agency in 2004? Has it been adopted and is it being implemented?*

Cal/EPA finalized and released the Environmental Justice (EJ) Action Plan in October 2004. Under my leadership, Cal/EPA continues to implement this plan which is vital to ensuring environmental justice.

Cal/EPA's progress in implementing the Plan includes:

1. The development of working definitions for "precautionary approaches" and "cumulative impacts";
2. The development and selection of BDO pilot projects that are aimed at developing practical information and findings that will benefit Cal/EPA's development of guidance regarding precautionary approaches, cumulative impacts and public participation; and

3. Implementation (ongoing at this time) of the pilot projects.

The pilot projects include:

- An ARB pilot project in the Wilmington community (Los Angeles) focusing on mobile and stationary source emissions;
- A DPR pilot project in Parlier (a community in the San Joaquin Valley) focusing on pesticide issues in a rural, farming community;
- A DTSC pilot project in West Oakland that is focusing on brownfields and site remediation issues in an urban community;
- A SWRCB pilot project in the Klamath Tribal community that is focusing on water resources management; and
- A SWRCB pilot project in Calexico that is focusing on water contamination issues on both sides of the border.

As the BDOs complete the pilot projects, we are moving forward with development of the cumulative impacts guidelines and precautionary approach guidelines. OEHHA is our lead BDO for the development of cumulative impacts guidance. The CIWMB is the lead BDO for the development of the precautionary approach guidance.

*19. Has the Agency incorporated environmental justice/precautionary principles into its activities, such as environmental permitting, risk assessment and risk management? Please provide details on how this has been done.*

I am committed to integrating environmental justice and precautionary approaches into Cal/EPA's activities. Based on input from CEJAC and the public process for the EJ Action Plan, Cal/EPA included in the EJ Action Plan the following very substantial objectives regarding precautionary approaches.

1. Develop a common, objective working definition for precautionary approaches.
2. Inventory where/how precautionary approaches are used in Cal/EPA's environmental programs, and any obstacles to limit precautionary actions.
3. Evaluate whether additional precaution may be warranted in Cal/EPA's environmental programs to address or prevent environmental justice problems.
4. Identify reasonable, cost-effective approaches that could be used to prevent or minimize adverse environmental impacts.
5. Develop guidance on precautionary approaches and recommend implementation options, including proposals for policy, regulatory, and statutory changes.

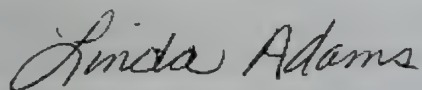
We are implementing these objectives under the EJ Action Plan. As you can see, they are broad objectives. Cal/EPA has already developed the following working definition based on input from the Integrating Work Group, CEJAC, and the public.

Honorable Don Perata  
February 28, 2007  
Page 19

We are working to finalize the evaluation referenced in the third objective. As the BDOs complete the pilot projects listed above, our focus is shifting to the fourth and fifth objectives. We will be forming a work group, including some members of CEJAC, and we will hold public workshops.

In closing, I am pleased to be able to serve the people of California in the Schwarzenegger Administration. I hope that the answers provided address your questions fully. Also, I have attached my updated Form 700, Statement of Economic Interest, per your request. Should you have any additional questions, please feel free to contact me at (916) 324-9214 or Ms. Patty Zwarts, Cal/EPA's Assistant Secretary for Legislation, at (916) 322-7315.

Sincerely,



Linda S. Adams  
Secretary for Environmental Protection

Attachments

cc: Ms. Nettie Sabelhaus  
Appointments Director  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814

Mr. Chris Kahn  
Legislative Secretary  
Office of Governor Schwarzenegger  
State Capitol, First Floor  
Sacramento, CA 95814





# California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control  
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment  
State Water Resources Control Board • Regional Water Quality Control Boards

Linda S. Adams  
Secretary for  
Environmental Protection



Arnold Schwarzenegger  
Governor

November 29, 2006

Senate Rules Committee

MAR 01 2007

## Appointments

Mr. Steve Johnson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460-0001

Dear Administrator Johnson:

Emissions from goods movement activities result in approximately 2,400 premature deaths annually in California. The greatest health impacts from exposure to diesel PM occurs in areas immediately adjacent to goods movement activity (i.e., adjacent to ports, rail yards, distribution centers, and freeways with a high volume of diesel trucks).

In the April 2006 Emission Reduction Plan for Ports and Goods Movement, the California Air Resources Board (ARB) estimated the contribution of emissions associated with international trade as cargo is moved via ship, train, truck, and equipment throughout the State. In the Los Angeles region, air emissions resulting from trade through the Port of Los Angeles and the Port of Long Beach accounted for 10% of the regional nitrogen oxides (NOx) and 20% of regional diesel particulate matter (PM) in 2005. With an anticipated tripling of trade at these ports between 2001 and 2020, international goods movement would then represent 25% of regional NOx and 50% of regional diesel PM emissions, unless new pollution-control efforts are instituted.

California has begun to take steps needed to reduce air pollution from port-related and goods movement sources. In April of this year, the ARB approved its Emission Reduction Plan. The voters of California just approved Proposition 1B which includes \$1 billion in bond funding for air pollution mitigation related to ports and goods movement. However, air pollution is just not a local or state issue, it is a national issue and we need your help.

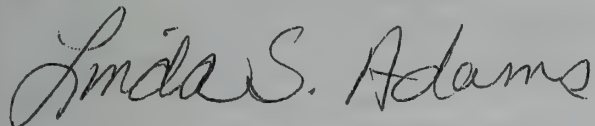
Earlier this year, the California State Legislature passed SJR 31 (Lowenthal) which urges the U.S. Environmental Protection Agency (US EPA) to adopt federal regulations limiting emissions from marine vessels, locomotives, and aircrafts in order to achieve healthful air quality in California and other areas with air quality problems. I am writing you to encourage the US EPA to adopt more stringent federal regulations and incentive programs to reduce air pollution emissions from these federally-regulated sources in order to improve air quality in California. I also urge US EPA to adopt regulations that mandate the use of state-of-the-art emission control technologies at the earliest feasible date.



Mr. Steve Johnson  
November 29, 2006  
Page 2

By working together we can reduce air pollution impacts in California. If you have any questions, please do not hesitate to contact me at 324-9214.

Sincerely,



Linda S. Adams  
Secretary

cc: Mr. Wayne Nastri  
U.S. EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dr. Robert Sawyer, Chair  
Air Resources Board  
1001 I Street, 25<sup>th</sup> Fl.  
Sacramento, CA 95814

Cynthia Bryant  
Chief Deputy Legislative Secretary  
Office of Governor Arnold Schwarzenegger  
State Capitol  
Sacramento, CA 95814

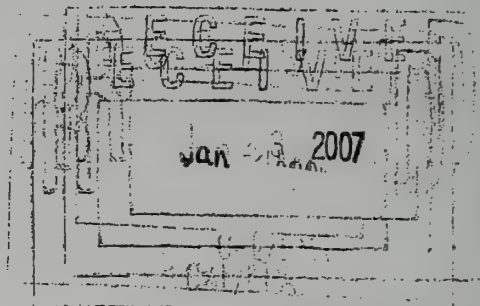


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 17 2007

OFFICE OF  
AIR AND RADIATION

Ms. Linda S. Adams  
Secretary  
California Environmental Protection Agency  
1001 I Street  
Sacramento, California 95814



Dear Secretary Adams:

Thank you for your letter of November 29, 2006, encouraging the Environmental Protection Agency (EPA) to adopt more stringent federal regulations and incentive programs to reduce air pollution emissions for locomotive and marine engines. We share your concern about the air quality impacts of these engines, and we are making good progress in developing proposed standards. We expect to issue the proposal in early 2007.

Controlling fine particulate matter and other hazardous diesel pollutants to protect public health is a priority for our Agency. While EPA previously set emissions standards for locomotive and marine diesel engines, we recognize that more emission reductions are needed. We are currently developing a comprehensive locomotive and marine diesel emission reduction program that will achieve substantial reductions as early as possible. EPA is committed to the development and implementation of successful regulations for both locomotive and marine diesel engines that will produce large public health benefits, while assisting states in achieving clean air in a cost-effective manner.

Again, thank you for your letter. I appreciate the opportunity to be of service and trust the information provided is helpful.

Sincerely,

A handwritten signature in dark ink, appearing to read "W L Wehrum".

William L. Wehrum  
Acting Assistant Administrator

.....

# Kim R. Blackseth, Interests, Inc

February 12, 2007

Nettie Sabelhaus  
Rules Committee Appointments Director  
Room 420  
State Capitol  
Sacramento, CA 95814

Re: Appointment of Kim Blackseth  
Building Standards Commissioner

Dear Ms. Sabelhaus:

I received your letter regarding my confirmation hearing before the Senate Rules Committee on March 7<sup>th</sup>. Thank you for the opportunity to respond to some criticisms you have received. I will begin by addressing your questions in your letter of January 26<sup>th</sup>, as follows:

1. *Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as a member of the commission?*

RESPONSE: As the "disabled" member of the commission, my particular interests are the disabled access portions of the CA Building Code. However, as a general contractor, I am concerned with the entire spectrum of code issues.

It is my goal to keep California in the forefront of disabled access through its code adoption and cutting edge interpretations of the needs of the disabled in the built environment.

I hope to act as a bridge between the disabled communities needs and the perceived conflict with businesses and their frustration with costs and interpretation of the access requirements.

It is my goal to create a CA Code that meets or exceeds the federal standards (ADA), so that the disabled and businesses have a resource that they are confident will provide access and protect them from lawsuits.

*Professional services and strategies for disabled access: . . . . . Senate Rules Committee . . .*

FEB 16 2007

**Appointments**



This is not what currently exists. We have a CA Code that in many instances conflicts with the federal standards. When a business builds or alters, they must comply with CA Code for permits and inspections. However, there is no body or inspections for the federal standards and this leads to confusion, lawsuits and needless expense.

A CA Code that meets or exceeds federal standards would resolve this, protect the disabled community's needs and create a "safe harbor" for business. While this is only one of my goals, I think it is the most important.

2. *What is your overall assessment of California's progress toward providing access for persons regardless of disability? What steps have you taken since you assumed office. And what do you intend to do during the remainder of your term?*

RESPONSE: It is my assessment that California is a leader in disabled access and is one of, if not the best, built environment for people with disabilities in the world. This has been my experience in my travels to other states and countries in the 25 years or so, which I have been in a wheelchair. As a Building Standards Commissioner, it is my goal to continue that leadership.

Since my appointment about 11 months ago, I have participated in adopting the new 2007 IBC, with CA Amendments. This was a tremendous achievement, which we completed on January 30<sup>th</sup>.

This new code was years behind schedule and CA was using a 1997 model code. We completed this task on schedule, even though many doubted we could and predicted at least another year before we would finish.

This task has not allowed me the opportunity to modify or improve disabled access provisions, as the staff and fellow commissioners insisted we adopt the model code first and deal with changes in the future.

On February 22<sup>ND</sup>, meetings with HCD will begin on specific access proposals, followed by the State Fire Marshall in March. It is during these meetings that the disabled community and the Board can begin making the CBC the leader in disabled access code. I intend to use the remainder of my term working towards that goal.



3. *How is the commission incorporating the concerns and comments on disability access into its code adoption decision?*

RESPONSE: The commission has access advisory committees that review all comments and forward them to the commission. Additionally, all access comments from the public are given serious scrutiny and consideration.

4. *Has the commission looked into posting its minutes on its website?*

RESPONSE: Yes. The commission is in the process of having its website redesigned (taking into account the request from the state's Chief Information Officer to include specified information on state websites) to increase its functionality. As part of the website redesign, commission staff has been in discussions about posting minutes on our website; no final decision has been reached regarding their posting.

5. *How does the commission manage its outreach efforts and provide public access beyond its Internet presence? What resources does it provide to non-English speakers?*

RESPONSE: Outreach and public access is addressed a number of ways, including:

1. The Executive Director regularly participates in industry group meetings and events around California as a speaker.
2. Contact information regarding the Commission and other state agencies adopting building standards is presented in each volume of the California Building Standards Code as information for the general public.
3. As described in the Commission's Policy and Procedure Manual, the Department of General Services' Equal Employment Opportunity Office provides the Commission with technical guidance and assistance in the processing of translation interpretation requests, as needed.
4. Posters are displayed in the office advising non-English and limited English-speaking customers of their right to request translation/interpreter services at no cost.

6. Do you believe the commission's current outreach and public access efforts are adequate? If not, what are the plans to improve them?

RESPONSE: No, additional outreach efforts could be taken, as follows:

1. The Commission published a newsletter until 2002, but with required personnel reductions it lost 22 percent of its staff and has been lacking the resources to continue publication of the newsletter. However, the Commission is gaining a new position on July 1, 2007, and plans to begin publishing the newsletter again. The newsletter will be distributed to all building industry groups with which the Commission works and to the general public that has requested notification of the Commission's activities and actions.
2. The Commission plans regular press releases of the Commission's actions.
3. The Commission plans to participate at the national level in model building code adoption processes, as resources allow. (California bases the California Building Standards Code on several national and international model building codes published in the United States.)
4. The Commission plans to coordinate educational workshops on new, and changes to existing, building standards around the state, as resources allow.

Yours truly,

Kim R. Blackseth, ICBO, ACD

**State of California Building Standards Commissioner**  
*International Conference of Building Officials # 1085694-12*  
*Academy Certified Diplomat*  
*ICC Certified Accessibility Inspector/Plans Examiner #20112*  
*Member of the Western Region Master Builders Association*  
*California General Building Contractor # 363311, since 1978*  
*Member of the Marin Builders Exchange*

FEB 14 2007

**SKG**

**S. K. Ghosh Associates Inc.**  
Seismic and Building Code Consulting

February 9, 2007

Chairman Don Perata  
California Legislature  
Senate Rules Committee  
Room 420, State Capitol  
Sacramento, CA 95814-4900

Dear Chairman Perata:

I am providing the following responses to your questions included with your letter dated January 26, 2007:

**Q1:** Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as a member of the commission?

**A1:** I hope to provide the necessary insight and technical knowledge in making decisions for the adoption of code provisions for the California Building Code. I plan on listening carefully to the testimony provided by state agencies, stakeholders and the general public; ask pertinent questions; and provide the necessary feedback at the BSC meetings to achieve the best possible building code for the State of California. I intend to identify opportunities for growth within the Building Standards Commission (BSC) daily operations and relationships with participating parties and make suggestions for improvements.

**Q2:** What is your overall assessment of California's progress toward providing access for persons regardless of disability? What steps have you taken since you assumed office, and what do you intend to do during the remainder of your term?

**A2:** My background is in structural engineering, and although I have been exposed to accessibility regulations, I have not been directly involved. I listened very carefully to the testimony on Jan. 30, 2007. I was impressed by the relationships developing between the BSC and the disabled community. However, I did see an opportunity for improvement and increased communication. There really hasn't been the time or resources to do any more than has been done recently due to the intense schedule set for the adoption of the 2007 California Building Code. But now, the time is right to take the necessary steps to improve communication between the BSC, the disabled community and the agencies responsible for the development of the standards for persons with disabilities.

Since I have assumed office, I have regularly communicated with the Executive Director on issues before the meetings so that I am more familiar and knowledgeable on the issues we face. I have reviewed the materials prior to the meetings, and I have attended every meeting since I assumed office. I intend to work on BSC committees and assist BSC staff wherever possible to review and recommend improvements in BSC programs.

**Q3:** How is the commission incorporating the concerns and comments on disability access into its code adoption decision?

Senate Rules Committee

FEB 14 2007

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phone (847) 991-2700 • fax (847) 991-2702 • e-mail [skghosh@aol.com](mailto:skghosh@aol.com)  
West coast: 25332 Shadywood, Laguna Niguel, CA 92677 • phone (949) 249-3730  
[www.skghoshassociates.com](http://www.skghoshassociates.com)

Appointment



# **S. K. Ghosh Associates Inc.**

Chairman Don Perata

February 9, 2007

Page 2

**A3:** The commissioners recognized that the Division of the State Architect (DSA) was able to include a number of revisions to their package to accommodate comments submitted by the disabled community, and the commissioners unanimously approved these revisions. The commissioners also recognized that improved communication between the Office of the State Fire Marshall and the disabled community had commenced and how important it is that this communication continue and grow. It was requested by the commissioners that a report be provided at the next meeting as to how the Office of the State Fire Marshall (as well as the Division of the State Architect) are reaching out to meet the needs and concerns of the disabled community.

**Q4:** Has the commission looked into posting its minutes on its website?

**A4:** No, this has not come up with the commission. But I think the timing is right for this to happen. There is no reason why, after the minutes have been approved by the commission, they can't be posted on the website. I have to say that so far the commission staff hasn't had the time to do anything but keep up with the incredibly demanding workload to meet the schedule for code adoption set by Chair Rosario Marin and the commission back in March 2006. It has been an incredible strain on staff to meet all of the rules and regulations demanded by the process and keep up with the paperwork necessary to conduct the numerous meetings that have taken place since March 2006. But now that the goal of adopting the 2007 California Building Code has been met, we need to take a look at the entire process and determine how we can improve upon it.

**Q5:** How does the commission manage its outreach efforts and provide public access beyond its Internet presence? What resources does it provide to non-English speakers?

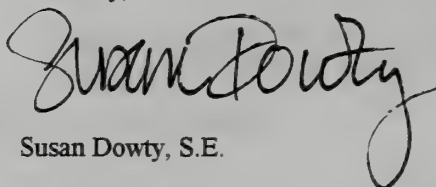
**A5:** The commission has an extensive mailing list to inform interested stakeholders about upcoming meetings. These stakeholders are informed by both e-mail and regular mail about upcoming meetings. As of this time, I know of no resources used specifically for non-English speakers. Additionally, as time permits, I know BSC staff meets with stakeholders and interested parties to discuss issues that specifically relate to their concerns. Also, when invited, BSC staff attends meetings in an effort to keep the public informed and be responsive to any concerns expressed.

**Q6:** Do you believe the commission's current outreach and public access efforts are adequate? If not, what are the plans to improve them?

**A6:** No, I do not think the commission's current outreach and public access efforts are adequate. The commissioners have made comments about making the website more user- friendly and to include more information that is commonly requested by the public. As mentioned before, during my tenure on the commission, all our focus and efforts had to be directed toward the immediate goal of adopting a 2007 California Building Code. However, now we are in a position to take a look at the outreach and public access efforts and determine how we can reach more people and help them understand the process better and participate in it more broadly. I know that BSC is looking into web casting meetings and other outreach opportunities as resources and technology permits.

Thank you for the opportunity to answer these questions.

Sincerely,



Susan Dowty, S.E.



**Christina Luisa Jamison**

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February 12, 2007

Senate Rules Committee  
Nettie Sabelhaus, Appointments Director  
State Capitol, Room 420  
Sacramento, CA 95814

Senator Perata and Members of the Senate Rules Committee,

In response to your letter dated January 26, 2007 I have prepared the following responses to your questions.

- 1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as a member of the commission?***

My goals as a commissioner are as follows;

1. To learn from and listen to all interested parties and to evaluate the information or concerns and make reasonable decisions.
2. To consider public health, safety and welfare of all California residents and ensure that the codes and standards adopted are in the public's interest without placing an unreasonable burden on the public.
3. To ensure a transparent and open public process beginning at the incipient stage of code development so that State agencies are working with interested parties to collaboratively develop an adoption package that allows for code language to be accurate, effective and to the furthest extent possible, built on consensus.

During my tenure I hope to participate and facilitate improvements related to the responsibilities of the California Building Standards Commission in the state code process, laws, policies, and overall strategic plan. I believe this can be accomplished through an open public process; distributing the workload of this effort among the five standing commission subcommittees and the Code Coordinating Committee.

Senate Rules Committee

FEB 14 2007

STAFF/ADMINISTRATIVE

**2. *What is your overall assessment of California's progress toward providing access for persons regardless of disability? What steps have you taken since you assumed office, and what do you intend to do during the remainder of your term?***

While I believe that California has historically been at the national forefront of building accessibility, we must do more to remain a leader. In order to be truly barrier-free, buildings must be designed and constructed so there is functional equal facilitation throughout. For example, we must continue to look for ways to improve employee workstation accessibility so all of our citizens can engage in meaningful and mainstream communal participation.

In the time that I have been on the Building Standards Commission, I have listened carefully to the concerns of the disabled community, and incorporated these concerns into my actions and voting decisions. As a commissioner, my expectation of the commission staff and State agencies has been to actively engage the disabled community in code development. I have also used my role as commissioner to raise accessibility awareness among the fire service, particularly in the area of emergency egress.

As a Building Standards Commissioner, I will continue to expand code development participation among the disabled community, and evolve the commission's role into a vehicle for increasing accessibility awareness throughout California. I will continue to encourage the State agencies and industry stakeholders to actively engage the disabled community in code development. I will also continue to enhance accessibility awareness among the California fire service by promoting the inherent relationship among barrier-free design, and basic human rights and personal dignity

**3. *How is the commission incorporating the concerns and comments on disability access into its code adoption decision?***

I can only respond to my actions and decisions, which were based on reviewing and obtaining information throughout the rulemaking process and included the following;

1. Review the proposed Express Terms and Initial Statement of Reasons developed by the State agencies related to accessibility.
2. Review the actions of the Building Standards Commission, Code Advisory Accessibility Committee. This committee provides recommendations to the Building Standards Commission and responsible State agency related to the Express Terms and purpose/rationale for amendments. This is an open public process and the committee is comprised of members representing; Hearing Impaired Disability, Visually Impaired Disability, Mobility Impaired Disability, Cognitive Impaired Disability, Construction Industry, Architect, Local Government, Fire Official, University of California and Public. The Accessibility Committee met in 2006 on July 6, Aug 2, 3 and 10 in order to thoroughly review amendments related to accessibility.
3. Review public comments submitted.
4. Review State agency responses as they relate to revising language, withdrawing proposals and responding to the public comments in the Final Statement of Reasons.
5. Listen to testimony during public hearings and evaluate concerns of both the public and State agencies.



In addition during the commission meeting on January 30 both the Division of State Architect and the Office of the State Fire Marshal committed to the commission that they would continue working with members representing the disabled community to address their concerns. During this discussion I requested that the commission receive a report at our meetings from the OSFM to update the commission on their efforts and progress.

I have confidence in the State agencies ability to work through the concerns of the disabled community. I have encouraged a process that structures the effort into workgroups with interest and expertise in that area (exiting, emergency evacuation, emergency rescue, detectable warnings, etc). Also many concerns were not under the authority of the commission so it is essential that the effort is planned and structured in a manner to introduce changes into the appropriate governmental process.

### **Public Access to Government**

**Agendas, minutes, and other public records are some of the ways the public can monitor a public body's actions. The commission posts its agendas but not its minutes on its website.**

**The commission's coordinating council and other committees do much of the commission's work. The commission posts some but not all committee agendas and does not post their minutes.**

#### ***4. Has the commission looked into posting its minutes on its website?***

During my tenure I do not believe that we have specifically discussed posting the minutes on the commission website. Nor am I aware of a request by any public member to do so. I do believe that all committee agendas were posted. They were not all posted under the "Calendar of Events" the Code Advisory agenda's were posted as part of the link for the "2006 Annual Code Adoption Cycle" that included another link for the "Code Advisory Committee Review". In my opinion the commission staff was very successful in making the website user friendly.

There has been a tremendous effort on the part of the Building Standards Commission staff and State agencies to post on the web; meeting agendas, Express Terms, the Initial Statement of Reasons and the Final Statement of Reasons along with all change notices during the public comment periods. In addition commission staff scanned and posted public comments on the website which had not been done in the past.

Posting the meeting minutes in my opinion is a great idea and easily achieved. But I would also caution that reviewing the minutes is not an effective tool for a member of the public to use if that persons desire is to effect change in the rule making process. I believe a better solution as a means to increase situational awareness and encourage participation throughout the process, especially for those that are unable to readily attend the meetings, would be to web cast the public hearings and possibly have video conference capabilities in both the southern and northern regions of the State.

**5. How does the commission manage its outreach efforts and provide public access beyond its internet presence? What resources does it provide to non-English speakers?**

Upon the request of any person the commission staff either adds the person to a mailing list or email list that provides all notices of meetings with respect to its proposed action.

At this time there are not resources provided in any other language than English. I have not been made aware of a request or concern from any public member addressing this as an issue. I would be very concerned if a need was identified to translate all related building standard rulemaking documents into any other language than English. Code language is very specific and could not be accurately translated through a computer program. The volume of staff hours required to achieve this manually and keep up with continuous changes throughout the process would require many additional staff members.

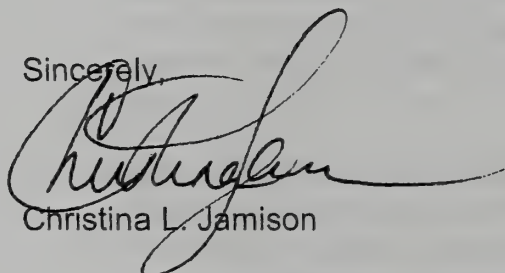
**6. Do you believe the commission's current outreach and public access efforts are adequate? If not, what are the plans to improve them?**

I believe the outreach and public access efforts can be improved and should be routinely evaluated. My plan for improvement, as I stated previously is to review our operational effectiveness. The goals of the Publications and Policy Management Committee, which is one of the five standing subcommittees of the commission, is currently in line with reviewing our outreach and public access efforts.

At the meeting on January 30 I requested an agenda item for our next meeting scheduled for March 22 that will allow the opportunity to discuss our efforts as a commission to review and improve the overall effectiveness of our operation.

In conclusion, I appreciate the opportunity to share my perspective with the Senate Rules Committee. I am honored to be a member of the California Building Standards Commission and I hope that you will consider confirming my appointment. Please allow me to respond to any additional questions or concerns you may have. I can be reached at 805-947-8527 or [christina.jamison@ventura.org](mailto:christina.jamison@ventura.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Christina L. Jamison', written over a horizontal line.

Christina L. Jamison





**The California Managed Risk Medical Insurance Board**  
PO Box 2769  
Sacramento, CA 95812-2769  
(916) 324-4695 FAX: (916) 324-4878

**Board Members**

Clifford Allenby, Chair  
Areta Crowell, Ph.D.  
Richard Figueroa  
Virginia Gottlieb, M.P.H.  
Sophia Chang, M.D.

**Ex Officio Members**

Jack Campana  
Kimberly Belshé  
Sunne Wright McPeak

**Senate Rules Committee**

FEB 20 2007

February 20, 2007

**Appointments**

**Statement of Cliff Allenby, Chair, Managed Risk Medical Insurance Board**

Senator Pro Tempore Perata and Members of the Senate Rules Committee,

Thank you for considering my reappointment as a member of the Managed Risk Medical Insurance Board (MRMIB) which oversees health insurance programs for low-income women and children, and California's high-risk pool for people otherwise uninsurable in the private market because of a pre-existing health condition.

The MRMIB, a five member non-paid volunteer Board, oversees the Healthy Families Program for low income children, the Access for Infants and Mothers for low income pregnant women, and the Major Risk Medical Insurance Program – the high-risk pool I mentioned above.

I was the founding chair of MRMIB when it was established in 1989 and have served on the Board for all but three of the intervening years. I have served as chair since 2002.

I have a heartfelt commitment to the Board's mission -- improving access to affordable coverage and ensuring delivery of high quality, cost-efficient care. I am excited by the likelihood of major reform this year, and proud that almost all of the proposals under consideration envision a major role for the Board. I can assure you that the Board will live up to the trust and confidence policymakers have expressed by implementing the enacted reform promptly, intelligently and openly, through our public hearing process.

A major issue facing the Board this next year is the reauthorization of the federal State Children's Health Insurance Program (SCHIP). California has the largest SCHIP program in the country, with over 770,000 children enrolled, and we will have to work vigorously on the national level to ensure that California gets sufficient funding to sustain and expand the program to 300% of the federal poverty level as Senators Perata and Kuhl, Speaker Nunez and the Governor have all proposed. This will require obtaining about twice the amount provided by the FY 2007 allotment.

Another critical issue on the Board's agenda is obtaining sufficient financing for the high risk pool so that we can enroll all subscribers seeking to participate. MRMIP, the Board's first program, has had to impose waiting lists for most of its history, and it is high time to end this regrettable practice. Assembly member Dymally has introduced a

bill, AB 2, which the Board supports, that will provide insurer financing for the pool above its baseline appropriation of Proposition 99 funds, thus abolishing the need for wait lists. The Governor's health care reform proposal would eliminate the need for MRMIP in the long run by reforming insurance rules in the individual market. But AB 2 is urgently needed to ensure that ,until reform is implemented, people are not denied the opportunity for health coverage.

Many of you are aware that I currently serve as Interim Director of the Department of Social Services as a retired annuitant. I have previously served as Director of the California Department of Developmental Services, Interim Director of the Department of General Services. Secretary of the Health and Welfare Agency, and Deputy Director of the Department of Finance.

I am honored to be a public servant and greatly enjoy my involvement with the Board. I believe we have accomplished a great deal in its 16 years and I look forward to working for its continued excellence. The next few years will present thrilling challenges for those of us committed to covering the uninsured. My goal will be for MRMIB to play its part by providing high quality, accessible, cost-efficient health coverage.

Thank you for your consideration of my reappointment to the MRMIB. I look forward to working with all of you in the future.

Date: February 22, 2007

To: Ms. Netie Sabelhaus  
Rules Committee Appointments Director, Room 420  
State Capitol  
Sacramento, CA 95814

Hon. Don Perata, Chairman  
Senate Rules Committee  
California Legislature

From: Josie L. Calderon

Subject: Senate CTC Nomination Questions

Pursuant to your request for response to questions outlined in your letter of February 2, 2007, the following statements attempt to provide you with my best understanding of the ten questions about the work of CTC. Please note that while I am not an educator, I have been involved for over ten years in K-12 educational activities as both an advocate of educational equity and in working to improve quality education for all students.

**Question 1.** *Provide a brief statement of goals about what you hope to accomplish while serving as a member of the Commission on Teaching Credentialing. What are your specific areas of interest?*

**Response 1.** Quality of teaching matters. I have been following the educational trends of ethnically and linguistically diverse student in California for many years. I have come to the conclusion that in order to improve the quality of education—teacher quality matters. As a member of the CTC, I will work on issues to improve how CTC monitors teacher quality. Among the issues of high priority for me, is the professional development of candidates for a teaching credential (pre-service) and credentialed teachers (in-service teachers) as they seek to continue to develop and improve on their skills to match the diversity of our K-12 students in California. Another area of interest is teacher cultural and linguistic competence in addressing the diversity of our students in our public schools.

**Question 2.** *What steps can CTC take to better anticipate and plan for the budget fluctuations that typically occur because of changes to the teacher workforce?*

**Response 2.** I would recommend that CTC undertake a comprehensive analysis of its budget fluctuations. I would ask that CTC respond to the following question: What are the strengths, weaknesses, opportunities and tensions of its present budget planning process? Specifically, I



would recommend that a study be conducted to pinpoint the specific areas of budget fluctuations over the past ten years. Based on the data and assumed accuracy, I would work with the members of CTC to assure that a specific annual budget be set to assure that budget fluctuations are minimized, while working to assure that no budget deficits occur.

**Question 3.** *What is the purpose of the CTC accreditation system? Are the proper systems in place to support this purpose?*

**Response 3.** The present accreditation system aims to monitor teacher preparation accountability, teacher quality through adherence to program standards, and ongoing improvement based on analysis of teacher preparation data on candidate competence, as well as reviews by trained evaluators (through site visits) who have expertise in credentialing areas. The accreditation system is complex and labor intensive suggesting that the need to evaluate and critically assess its effectiveness on an ongoing basis.

**Question 4.** *Should the CTC increase the accountability of its accreditation system? If so How?*

**Response 4.** The CTC seeks to promote educational excellence through the preparation and certification of professional educators--this requires a strong accreditation accountability system. A combination of approaches can help improve the accountability system: by having teacher education agencies provide annual data on its trained candidates, site visits every other year by regional teams composed of members from different educational agencies involved in teacher preparation, through statewide assessment of candidates perceptions of the training received at the end of their preparation, one year later and three years later.

**Question 5.** *What are the most important recommendations CTC has recently adopted from the Accreditation Study Work group to improve the accreditation system? Do these proposals address the shortcoming identified by the Legislature Analyst earlier this year?*

**Response 5.** The CTC Accreditation Study Work has made recommendation pertaining to re-starting accreditation site visits. Among the recommendations that I support are:

- procedures that the Committee on Accreditation (COA) adopted for use in the scheduling of accreditation site visits.
- the revision of the *Accreditation Framework* to reflect four broad purposes of accreditation: accountability; high quality and effective preparation programs; adherence to credential standards; and encourage and support on-going program improvement.
- accreditation as an On-Going Activity that becomes an on-going activity instead of a once every six year event based on Commission standards, and data-driven decision making.
- review of each institution's prior accreditation report and continuing data reports as part of the accreditation system.
- establishing consistency in the accreditation system by adopting the general principle that all programs that lead to a credential or certificate in California should be reviewed on a periodic basis and that the review process should be implemented in a manner that recognizes program differences but maintains comparable rigor across program types.



The recommendations are a good beginning in addressing the Legislature Analyst on their assessment of the CTC Accreditation process that documents that the CTC has vague standards, conducts subjective reviews and is overly focused on measuring inputs rather than outputs. As an advocate for quality education, I do support making the standards, process, and reports comprehensible and measurable, with a strong emphasis in looking at the final product—teacher quality. I also support professional review teams that are data driven and focus on teacher and student development.

**Question 6.** *What has been the impact of suspending CTC accreditation process on teacher quality? When will CTC accreditation be fully operational? Is there currently a backlog of programs requiring review?*

**Response 6.** My reading of the field is that institutions of higher education continue to work on teacher quality. For example, the CSU has initiated a statewide data collection process that assesses the candidate's opinions of the training received by institution and program. This data assists programs to reflect on their practice and identify perceived strengths and weaknesses. Yet without external reviews the institutional review process can take many forms and definitions of what constitutes teacher quality. My understanding of current backlog of program reviews is such that immediate attention needs to be given to re-engaging the accreditation review process.

**Question 7.** *What changes has CTC implemented to streamline the credentialing process and simply the steps a teacher candidate must take to become fully credentialed?*

**Response 7.** I will need to study the CTC's credentialing process in more detail. I do know that the present CTC credentialing system is not friendly to candidates in the teaching profession and labor intensive for prospective candidates. Federal and state entry requirements make it difficult or non-inviting for a professional wanting to enter the teaching profession. How we streamline the credentialing process while maintaining rigor is an area of great interest for me as a prospective member of the Commission.

**Question 8.** *What is CTC doing to eliminate major redundancies in the credentialing process, such as requiring application materials to be reviewed by CTC, university teacher preparation, and county offices of education?*

**Response 8.** This is another area that I need to learn more about—the redundancies in the credentialing process. At a personal level, I know that some of my own family members have been involved in acquiring teaching credential and have experienced a bureaucratic processes that required them to present comparable documentation to their university teacher preparation program, school district, and local county office of education.

**Question 9.** *Should changes be made to the CTC governance structure to improve quality in California?*

**Response 9.** From my assessment and reading of CTC documents, there is awareness that the governance structure of CTC needs to be reviewed to facilitate the improvement of teacher quality. Should I be appointed as a member of the Commission, I will have the opportunity to

examine what hinders or promotes teacher quality in California.

**Question 10.** *Do you have recommendation for restructuring or streamlining any CTC's core functions?*

**Response 10.** Accountability, adherence to standards, high quality preparation for educators, and on-going program improvement are the core functions of CTC. Yet, there is a need to assure that program standards and quality of teacher preparation programs be more consistent. Institutional or agency paper approval is one thing, while the actual quality of teacher preparation is another. In California the accreditation system on teacher quality will need to address the changing demographics of our state. The large majority of low-income and ethnically diverse students in California are not doing well academically. In the next five years, California will have more students whose home language is other than English, over 75% ethnically diverse students, while the teaching force will continue to be over 75% Euro-American. How to prepare teachers who have the sensitivity, cultural competence and teaching specialization skills is an important core function of CTC and a restructuring issue that awaits its attention.

Should you need additional information, please let me know. I am committed to teacher quality and closing the achievement gap in California's public schools.



**General Responses for Senate Rules Committee**  
**Caleb Cheung, Commissioner**

- 1. Please provide a brief statement of goals. Please be specific about what you hope to accomplish while serving as a member of the California Commission on Teacher Credentialing. What are your specific areas of interest?*

My background and interests in education include pre-service and in service training of teachers, urban education issues, science pedagogy and curriculum development, and district level systemic reform strategies. My goals for serving on the Commission stem from these interests and include the following:

- Addressing the issues around the training of urban teachers.
- Implementing the Teaching Performance Assessment
- Implementing a accreditation system based on outcomes.
- Updating the standards for certain credentialing areas.
- Maintaining a high standard for teacher discipline.

- 2. What steps can CTC take to better anticipate and plan for the budget fluctuations that typically occur because of changes to the teacher workforce?*

The CTC must be allowed to maintain a reserve above the statutory limit of 10% to be prepared for years of declining revenue. Closely monitor Certificates of Clearance that are issued for student teachers, these numbers can serve as a predictor of future teacher applications and could help with estimating future revenue. Monitor actions taken by the legislature that might impact the teacher workforce.

- 3. What is the purpose of the CTC accreditation system? Are the proper systems in place to support this purpose*

The CTC has four purposes to its accreditation system:

1. Accountability – to both the public and to the teaching profession
2. Adherence to standards – ensuring that programs are implementing state adopted standards for credential programs.
3. Ensuring high quality programs
4. Fostering on-going programmatic decision making – to ensure that the accreditation process requires that credential programs regularly and routinely review data related to their candidates and programs and base their decision-making on the information collected.

Except for staffing issues, which the CTC continues to attempt to address, the proper systems are in place to support this purpose. Because the workgroup and the Committee on Accreditation defined and agreed upon the four basic purposes prior to development of the revised system, the new system responds directly to these newly defined purposes. In addition, the revised system includes an evaluation component that will help the Commission ensure whether the revised system needs adjusting to ensure better alignment with the agreed-upon purposes.

**Senate Rules Committee**

FEB 22 2007

**Appointments**

4. *Should CTC increase accountability of its accreditation system? If so, how?*

Yes. The work group and COA recommended, and the Commission adopted the recommendation, to improve communications and oversight of the accreditation function. They determined that the past process of annual reports from COA to the Commission (required in Ed Code) should serve as a minimum level of oversight and that much can be done to improve the communication and oversight.

The Commission will consider in the Spring 2007, ways in which it will increase communication with the Committee on Accreditation. A plan to increase regular, on-going communication between COA and the Commission about accreditation decisions, trends in accreditation, and issues related to the implementation of the revised system will be considered and acted upon.

This new revised communication plan should provide the Commission with a much better sense of the strengths and shortcomings of the revised accreditation system – either in policy or implementation – and the Commission can be better prepared to make adjustments as necessary.

5. *What are the most important recommendations CTC has recently adopted from the Accreditation Study Work Group to improve the accreditation system? Do these proposals address the shortcomings identified by the Legislative Analyst's office earlier this year.*

Many of the shortcomings identified by the LAO office were those identified by the review group and are addressed by the new system. The Commission's report, "Moving Forward" addresses each of the areas identified by the LAO. Some of the most important recommendations include:

1. Revised system is on-going rather than once every six years. The system no longer relies on a one time site visit once every 6 years. The revised cycle includes biennial candidate outcomes reports, program assessments, and site visits over a 7 year cycle.
2. Revised system incorporates outcomes data.
3. Revised system requires on-going data collection, analysis, and programmatic changes as a result of the findings of that data.
4. Revised system has more flexibility for more timely response, intervention, and correction.
5. Revised system looks at an institution over time, rather than a snapshot.
6. Revised system may require follow up from all institutions, even those that receive full accreditation status.
7. Revised accreditation system allows for focused visits to investigate further on areas of concern.
8. Revised system maintains partnerships with national accrediting bodies.
9. Revised system establishes consistency by including all credential programs in the system, rather than piecemeal approach (will be implemented over time).



6. *What has been the impact of suspending the CTC accreditation process on teacher quality? When will CTC's accreditation process be fully operational? Is there currently a backlog of programs requiring review?*

Because of the extensive SB 2042 review of all teacher preparation programs in approximately 2002-2004, the impact of suspending CTC accreditation process has been minimal. In addition, it has been of limited duration and is being replaced with a more robust system. During the suspension, accreditation reviews for all institutions seeking national accreditation continue to be conducted. The Commission is moving aggressively but systematically to implement the new system. The Commission is pilot testing the newest component of the accreditation system – the biennial report focusing on candidate outcomes data – in the Spring of 2007. Although various aspects of the revised system will be phased in over time in order to give appropriate notice to institutions undergoing review, accreditation activities for 2007-2008 will be fully functional and include:

- Biennial Candidate Outcomes Reports – (37 institutions)
- A full slate of site visits (14 institutions)
- Program Assessments (16 institutions)
- Previsits for the 2008-09 accreditation reviews (12 institutions)
- Training for reviewers

A schedule for accreditation activities and site visits through 2012-13 is available on the Commission's website.

7. *What changes has CTC implemented to streamline the credentialing process and simplify the steps a teacher candidate must take to become fully credentialed?*

The CTC has utilized technology to streamline the credentialing process:

- All teachers must renew credentials online – 10 working days to process
- Colleges and universities recommend their credential candidates online – 10 working days to process
- Induction programs are being trained to make credential recommendations online – 10 working days to process
- Community colleges can be approved to recommend for Child Development Permits – 20 working days to process
- Student teachers can apply online for Certificates of Clearance
- By July 2007 public school districts and county offices of education will be able to submit 30-Day Substitute Permits online – 10 working days to process

8. *What is CTC doing to eliminate redundancies in the credentialing process, such as requiring application materials to be reviewed by CTC, university teacher preparation programs and county offices of education?*

By utilizing the technology as mentioned in question 7, redundancies are being eliminated. Colleges and universities recommend online without CTC review and by July 2007, county offices will be able to apply for 30-Day Substitute Permits online. The

need for county office of education issued Temporary County Certificates has been greatly reduced due to quick processing time for online applications.

*9. Should changes be made to the CTC governance structure to improve teacher quality in California?*

No, the current governance structure is adequate for improving teacher quality.

*10. Do you have any recommendations for restructuring or streamlining any of CTC's core functions?*

Continue to integrate technology in new areas to streamline core functions.

February 15, 2007

The Honorable Senator Don Perata, Chair  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, California 95814-4900

**Senate Rules Committee**

FEB 22 2007

Dear Senator Perata:

**Appointments**

Thank you for this opportunity to respond to questions regarding my pending appointment to the California Commission on Teacher Credentialing. Below please find these questions followed by my responses. Should you or members of your staff wish further information, I can be reached via e-mail at [mjgaston1@aol.com](mailto:mjgaston1@aol.com), or by phone at (831) 566-6881.

**1. Statement of goals.**

As founder and president of the Center for the Future of Teaching and Learning I have been involved with and dedicated to strengthening the quality of California's teacher workforce for fourteen years. It is my understanding that, as an autonomous, independent standards board, the Commission's overarching goal is to ensure that every public school student has a fully prepared and effective teacher, a goal that runs parallel to the mission of the Center. During my tenure as a Commissioner, I would like to continue to work toward ensuring the state has a cohesive and coherent teacher development system capable of delivering an adequate supply of fully prepared and effective teachers to California's schools. Related to this goal, I would like to see greater emphasis placed on preparing and placing teachers in challenging assignments, including high-need schools, special education and classrooms with English learning students. Further, I would like to see greater opportunities for science and mathematics teachers who are already in the classroom to deepen their subject matter content knowledge and pedagogical skills through more and better professional development opportunities. Finally, I have a special interest in promoting a more equitable distribution of novice and accomplished veteran teachers so that children in our high-need schools get the high quality instruction they require to succeed academically.

**2. Long-term Fiscal Health of the Commission.**

Based on my years of experience with public opinion polling, it is my belief that California's citizens value licensure and hold the view that the



teaching credential offers evidence that the holder, who is at the threshold of his or her career in education, is at least minimally prepared to teach. This function of the Commission is important to the public and does not vary with fluctuations in the budget: even with the somewhat unreliable nature of a fee-based budget, the Commission must still fulfill its obligation to the public to ensure the safety and educational promise of the state's children. It has been demonstrated to me that considerable progress has been made to streamline credentialing procedures, including application and renewal, as well as shift operations to an electronic format that is likely to result in considerable cost savings. Additionally, it may be helpful to work toward moderating the effects of fluctuations in the teaching force by using the new teacher data system set forward in SB 1614 (Simitian, 2006) to forecast teacher supply and demand over time. Shortfalls in fee collection may be offset by careful fiscal planning as, based on the Center's analysis of supply and demand since 1998, the numbers and assignments of teachers ebb and flow over time.

### **3. The Purpose of the CTC Accreditation System.**

According to minutes of the July 2006 meeting of the Commission, there are four adopted purposes of accreditation, including 1) accountability; 2) adherence to standards; 3) ensuring high-quality programs; and 4) fostering on-going programmatic decision making. As a commissioner, I will be especially interested in the fourth purpose of accreditation as I believe strongly that improvements to our system depend on the regular review and use of reliable data as a base for strengthening teacher preparation.

With regard to making sure the proper systems are in place to support accreditation, I believe that CTC is restoring this function with the promise that review of program quality (outcome-based) is finally a possibility. I would like to see the continuing development of this function in concert with the review and approval of course offerings to ensure a closer coupling of program planning and implementation. I hope that the new evaluation component will help the Commission identify gaps in the system and provide insight into where improvements can be made.

### **4. Increasing the Accountability of the Accreditation System.**

As I understand the way that the Accreditation System is structured, the Commission sets policy and hears appeals regarding accreditation decisions, and the Committee on Accreditation implements these policies, renders decisions, and reports back to the Commission. Accountability should relate to all three tiers implied in the system, including preparation programs, the Commission and the Committee on Accreditation. Sound, reliable data regarding the outcomes of preparation programs, i.e., the numbers of teacher candidates successfully placed in schools (and well prepared to take challenging assignments in shortage areas), the extent to

which these novice teachers are able to impart curriculum content in a powerful way to all learners, and so on, must be an integral part of the new accreditation process. It is apparent that the success of the system depends on the extent to which communication flows between these entities, with responsibility to guide programs falling to the state agency, and responsibility to implement rigorous and effective programs vested with the approved preparation programs.

**5. Recommendations to Improve the Accreditation System**

According to minutes of the CTC meetings, the following improvements to the Accreditation System are already underway:

- A. The revision of the Accreditation Framework;
- B. The development of a streamlined process of Committee on Accreditation reporting to the Commission;
- C. The revision of the accreditation cycle from a single visit once every six years to a series of activities over the course of seven years;
- D. The submission of biennial reports to the Committee on Accreditation;
- E. The revision of the cycle of review from a 3 to 4 day comprehensive site visit to a system that features annual data collection by the institution; and
- F. The inclusion of all credential and certificate programs in the accreditation process as a means of ensuring consistency in the system.

The anticipated outcomes of these revisions in which I am the most interested include targeted, data-driven intervention and faster response to program changes; system guidance over time (rather than piecemeal improvements); and the acculturation of self-study for all institutions as a regular means of program improvement.

**6. The Impact of the Suspension of CTC's Accreditation System on Teacher Quality.**

I believe that ensuring the quality of California's preparation programs is a key role of the Commission and, therefore, it is important that the suspension of the Accreditation System be addressed. While national accreditation of member programs were conducted and other means of strengthening teacher preparation — including the outcome-based PACT— were in operation during the suspension of the accreditation system, it is important to restart this function as soon as possible. In my view, the outcome-based new Accreditation System is a much stronger approach to ensuring teacher quality than the old model and I look forward to its full implementation in 2008. The new Accreditation System, in concert with the Teacher Performance Assessment called for in Senate Bill 2042 (Alpert, 1998) and implemented under SB 1209 (Scott, 2006),



promise a comprehensive view of teacher preparation and a powerful lever for strengthening the teacher workforce.

The schedule of reviews was presented to the Commission at the November 2006 meeting under agenda item 7F.

**7. Changes to Streamline the Credentialing Process**

I believe that the most promising changes in this area will come about as a result of the full implementation of SB 1209 (Scott, 2006) with regard to streamlining credentials for both in-state and out-of-state teachers. Removing bureaucratic barriers to qualified teachers coming to California, eliminating redundancies in testing, and supporting interns so that they can move smoothly through their preparation period will help to get the teachers we need into classroom quickly and efficiently. Further, the effort on behalf of the Commission staff to utilize online technology for processing credentials will set the stage for additional streamlining efforts. Records show that the time it takes for initial credentials to be processed or teachers to renew credentials is now approximately 10 working days due to the requirement that all applications must be submitted online. As a result of the same technologically-based changes, Child Development permits now take 20 days, and by July 2007 districts and county offices will be able to submit 30-Day Permits online and have them processed within 10 days. This combination of thoughtful policy and effective practice appears to me to be a powerful and necessary approach to facilitating the ease in which fully prepared teachers are delivered to the classrooms where they are needed most.

**8. Eliminating Major Redundancies in the Credentialing Process**

By using the same technology noted in Question 7, redundancies in the credentialing process are being addressed.

**9. Changes Made to the CTC Governance Structure**

While my familiarity with CTC governance structure as a new member is quite limited, I have observed that operations, particularly under new Executive Director Dale Jensen, appear to work well. Recent changes in the policy manual approved by the Commission at the last meeting promise to further streamline operations and clarify functions. The quality of the staff work is excellent and preparation for meetings appears to be thorough and thoughtful. At this time, I see no reason to change the current governance structure.

**10. Recommendations for Restructuring or Streamlining CTC's Core Functions**

I believe that the full implementation of SB 1209 (Scott, 2006) will set the stage for continuing refinement of California's teacher development system. With the concepts of streamlining the credentialing system and



removing bureaucratic barriers embedded in this legislation guiding the Commission's work, a clearer path from preparation to accomplished teaching is likely to emerge. To begin, the utilization of technology and continuing training of CTC staff appears to be successfully addressing the challenge of streamlining credentialing services. Other improvements, including the development and implementation of the Strategic Plan, the Weekly Updates for Commissioners and the revised Policy Manual have begun to have a positive effect on the organization. As an observer of the Commission over the years and as a consumer of the organization's data and services, these changes appear to be both dramatic and positive. I would recommend a "stay the course" strategy with careful attention paid to the status of the teacher workforce (supply, demand, preparation, placement and distribution) as a guide to further refinement.

Sincerely,

  
Margaret J. Gaston



## UNIVERSITY OF CALIFORNIA BERKELEY



BERKELEY DAVIS IRVINE LOS ANGELES MERCED RIVERSIDE SAN DIEGO SAN FRANCISCO

SANTA BARBARA SANTA CRUZ

## Senate Rules Committee

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## Appointments

**Date:** February 23, 2007  
**To:** Senator Don Perata, Chair, Senate Rules Committee  
**From:** P. David Pearson  
**Subject:** Responses to questions asked by the Senate Rules Committee regarding nomination for the Commission on Teacher Credentialing

1. *Please provide a brief statement of goals. Please be specific about what you hope to accomplish while serving as a member of the California Commission on Teacher Credentialing. What are your specific areas of interest?*

My overarching goal is work with my colleagues and the CTC staff to create a credentialing process that will provide all of California's schools with highly qualified teachers—teachers who know their subject matter, their students, and their pedagogy. Along with high standards, we want low hassle—the process of becoming a teacher should be transparent, straightforward, and as inexpensive as our high standards will permit. A system with high standards and low hassle will return teacher credentialing in California to a position of national leadership, respect, and even envy. We want the nation to look to California as the model for producing the sorts of teachers all states want. To this end Commission is undertaking strategic planning during 2007 to set specific goals based on input from Commissioners, stakeholders and staff. As we reflect on the informal input from stakeholders, staff, and Commissioners, we anticipate that goals will emerge from each of these topics:

- Implementing an outcomes based system of accreditation, ensuring that universities and other providers of teachers are as attuned to outcomes as the rest of our school system.
- Implementing the Teaching Performance Assessment to ensure high standards for pedagogical knowledge and performance
- To the degree that our high standards permit, streamline and consolidate the assessments required to become a teacher.
- Simplify the requirements (without lowering the standards) for subject matter preparation
- Continue to streamline credential processing through the application of smart technologies
- Maintain high ethical and moral standards and tough disciplinary actions
- Update standards as new research and knowledge require (e.g. the Special Education and Designated Subjects are at just such a stage right now).

2. *What steps can CTC take to better anticipate and plan for the budget fluctuations that typically occur because of changes to the teacher workforce?*

The CTC must maintain a reserve above the statutory limit of 10% to be prepared for years of declining revenue. We should also establish an "early warning system by monitoring Certificates of Clearance issued



for student teachers. These data can serve as a predictor of future teacher applications and sharpen our estimates of future revenue. We should also monitor actions taken by the legislature that might impact the teacher workforce.

3. *What is the purpose of the CTC accreditation system?*

When I joined the CTC a year ago, we were in the midst of a review of the accreditation system. In that review, we determined that there are four basic purposes of accreditation, which we formally adopted in July 2006. They are currently being incorporated into the new *Accreditation Framework* which will come before the Commission for approval in the Spring 2007. The four purposes are:

- Accountability – to both the public and to the teaching profession
- Adherence to standards – Ensuring that programs are implementing state adopted standards for credential programs.
- Ensuring high quality programs
- Fostering continuing data-based decision making about credential

*Are the proper systems in place to support this purpose?*

- Yes, with the exception of staffing issues, which we continue to work on but struggle with.
- Because the workgroup and the Committee on Accreditation defined and agreed upon the four basic purposes prior to development of the revised system, the new system responds directly to these newly defined purposes.
- The cornerstone of the revised system is an evaluation component that will help the Commission continue to fine-tune the system to assure alignment with purposes.

4. *Should CTC increase accountability of its accreditation system. If so, how?*

Absolutely. And that is exactly what the review and overhaul of the accreditation system has begun to do. We are on the right trajectory to improve both communication with our constituencies and our oversight of their operations.

This process is a little tricky, due mainly to the provisions in the Education Code. The Education Code sections actually limits the role of the CTC in accreditation. The Commission is responsible for:

- Establishing policy related to accreditation
- Appointing the members of the Committee on Accreditation (6 K-12, and 6 IHE educators outstanding in the field of education)
- Hearing appeals of accreditation decisions

On the other hand, the Committee on Accreditation

- Implements the Commission's policies
- Renders accreditation decisions
- Reports to the Commission annually.

In the Spring of 2007, The Commission will consider act on ways to increase communication with the Committee on Accreditation. This new revised communication plan will provide the Commission with a much better sense of the strengths and shortcomings of the revised accreditation system, in both policy and implementation, and shape needed adjustments.

5. *What are the most important recommendations CTC has recently adopted from the Accreditation Study Work Group to improve the accreditation system? Do these proposals address the shortcomings identified by the Legislative Analyst's office earlier this year.*

- Many of the shortcomings identified by the LAO office were also identified by the accreditation review group; they are explicitly addressed in the new system. **The Commission's report, "Moving Forward" addresses each of the areas identified by the LAO. I have appended the portion of the CTC response related to accreditation for your reference.**
- The revised system:
  - a. requires on-going rather episodic (once every six years) activity on the part of providers. The revised cycle includes biennial candidate outcomes reports, program assessments, and site visits over a 7 year cycle.
  - b. incorporates outcomes data.
  - c. requires on-going data collection, analysis, reporting, and, most important, mid-course programmatic changes resulting from this activity.
  - d. has more flexibility for more timely response, intervention, and correction.
  - e. looks at an institution over time, rather than a snapshot.
  - f. may require follow up and fine-tuning from all institutions, even those that receive full accreditation status.
  - g. allows for focused visits to investigate further on areas of concern.
  - h. maintains partnerships with national accrediting bodies.
  - i. establishes consistency by including all credential programs in the system, rather than piecemeal approach (will be implemented over time).

6. *What has been the impact of suspending the CTC accreditation process on teacher quality?*

Two factors converged to promote a moderate level of professional review even during this period of minimal accreditation activity. First, the extensive SB 2042 review of all teacher preparation programs in the early half of this decade (2002-2004) meant that all programs/institutions have received at least some professional review. Second, during the suspension, accreditation reviews for all institutions seeking national accreditation have continued. But we are now at a point where aggressive action is needed to move to the new system. The Commission is pilot testing the newest component of the accreditation system – the biennial report focusing on candidate outcomes data – in the Spring of 2007.

Although various aspects of the revised system will be phased in over time (in order to give appropriate notice to institutions undergoing review), accreditation activities for 2007-2008 will be fully functional and include:

- Biennial Candidate Outcomes Reports – (37 institutions)
- A full slate of site visits (14 institutions)
- Program Assessments (16 institutions)
- Previsits for the 2008-09 accreditation reviews (12 institutions)
- Training for reviewers

A schedule for accreditation activities and site visits through 2012-13 is available on the Commission's website.



7. *What changes has CTC implemented to streamline the credentialing process and simplify the steps a teacher candidate must take to become fully credentialed?*

This is an area of great progress, and I am very proud of the work that the staff and the executive director have done to eliminate our backlog and streamline the credentialing process, most of which involve extensive use of updated technology

- All teachers must renew credentials online – 10 working days to process
- Colleges and universities recommend their credential candidates online – 10 working days to process
- Induction programs are being trained to make credential recommendations online – 10 working days to process
- Community colleges can be approved to recommend candidates for Child Development Permits – 20 working days to process
- Student teachers can apply online for Certificates of Clearance
- By July 2007 public school districts and county offices of education will be able to submit 30-Day Substitute Permits online – 10 working days to process

8. *What is CTC doing to eliminate redundancies in the credentialing process, such as requiring application materials to be reviewed by CTC, university teacher preparation programs and county offices of education?*

Here is where the technology really helps us. By allowing our various constituencies (colleges and universities, county offices, and community colleges) to work through our system on-line, duplicate data entry, not to mention duplication of paper forms, is all but eliminated.

9. *Should changes be made to the CTC governance structure to improve teacher quality in California?*

To be quite honest, it is too soon for me to tell. I am still learning the ropes of the current governance structure and have yet to run into the knots that ought to be unknotted or cut loose. I'll know more in another six months, and, if you like, I'll report back with a more definitive answer. The one thing I do believe is that the legislature and the governor should do everything it can to keep an independent commission—one that has the distance to balance sensitivity to constituents' needs and interests against broader social concerns about teacher quality and student achievement and opportunity.

10. *Do you have any recommendations for restructuring or streamlining any of CTC's core functions?*

Clearly technology has already proven to be our friend (and the friend of California teachers) on the streamlining front. But the long-term solution to restructuring lies in two activities that must be ongoing and mutually informing—**listening** to all the constituencies that have a stake in teacher quality and **strategic planning** on the part of the staff to determine (a) how to implement the policies set by the commission, and (b) a range of future needs based on careful analysis of state trends in enrollment, curriculum, and achievement and national developments in teacher education.



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*11. How is the Commission doing?*

This is my question, not yours. I added it so that I could report to you that over the last year, I have witnessed tremendous progress in the work of the Commission, both for the Commission itself and the staff. The Commission has refocused its energies on the issues that matter most for improving the teaching force of California. And now with SB 1209 on the table, we will have to achieve even more focus to set policies and establish procedures to make its provisions a reality. And the staff has witnessed a renaissance in its energy and efficiency, most of which I attribute to new internal leadership, mainly the new executive director, Dale Janssen.

We want to be part of the solution to the problems of California education, not part of the problem. We want to be the first place the Governor's Office and the Legislature look to for guidance in improving teaching, not the last! I think we are well on our way to changing our stripes.

(EXCERPT FROM THE COMMISSION REPORT,  
 MOVING FORWARD, SEPTEMBER 2006)

Appendix A

*Modernizing the Functions of the Commission on Teacher Credentialing*  
 A Report by the LAO (April 27, 2006)

CCTC Comments

Accrediting Teacher Preparation Programs

LAO Issue	CCTC Comments
A New Performance Based Accreditation System Should Be Established	<p><u>CCTC is considering a new performance-based accreditation system.</u></p> <p>In June 2004, the CCTC convened an accreditation review group (primarily made up of stakeholders) to develop and propose revisions to the existing accreditation system. In October 2005, the CCTC directed that the new model for accreditation be sent out for stakeholder review. This new model incorporates outcomes based accreditation, while maintaining the importance of standards that define a quality program.</p> <p>In this new model, biennial reporting data related to candidate outcomes would be required from every institution offering credentialing programs. This outcomes data serves as a critical information source for the accreditation process and for determining whether there are any areas of concern that merit a site visit sooner than scheduled.</p>
Current System Almost Entirely Input Oriented	<p><u>Outcome based data is the cornerstone of the CCTC accreditation review group proposed accreditation system.</u></p> <p>The current accreditation system considers both input and output measures. The accreditation review group agreed early on in the review process that the current system needed improvement and that the revised model needed to incorporate outcomes based measures. As a result, biennial reporting was developed that would be entirely related to candidate outcomes data and would serve as a major component in accreditation decisions.</p>
Standards Are Vague, Reviews Subjective	<p><u>The CCTC proposed system would be based on revised common standards focused more directly on candidate outcomes and the SB 2042 program standards.</u></p> <p>The LAO report bases much of its accreditation comments on the American Institutes for Research (AIR) report. Since the AIR report was conducted prior to the full implementation of the SB 2042</p>



**LAO Issue****CCTC Comments**

standards, it would not be a useful tool for analysis of the current system. The current SB 2042 program standards are much more specific than previous standards, especially given the addition of "required elements" within the standards.

The accreditation review group supports the need to update CCTC's common institutional standards. They are currently in the process of developing language that would be more specific and more focused on candidate outcomes data.

**Accreditation  
Reviews Occur Too  
Infrequently****The proposed system provides more frequent outcome based data and a more rigorous follow-up process.**

Early on in the process, the accreditation review group determined that accreditation activities occur too infrequently and that accreditation must be transformed from a one-time event into an on-going process. As a result, they developed a proposed structure that would require biennial reports focused on outcomes data, a 4<sup>th</sup> year program document review, and a 6<sup>th</sup> year focused site visit. In addition, the proposal includes a much more rigorous follow up process allowing more flexibility to ensure that the institution has rectified any inadequacies in their programs.

**Current Process  
Focuses on  
Institutions, Not  
Programs****The proposed system focuses on both program findings and institutional findings.**

The current reviews focus on both the institution as a whole and its individual preparation programs. The accreditation review group sought feedback on this particular issue from institutional representatives. The review group's proposal includes maintaining the focus of accreditation on institutions, thereby allowing institutional representatives the leverage they need to bring about improvements from departments outside of their authority, while improving the manner in which results are reported for individual programs. Under the proposed new system, standard program findings would be reported for each program an institution offers in addition to the institutional, or unit, decision.

**Quality of  
Information Varies  
Significantly****The proposed system reports similar institutional data.**

Under the accreditation review group's proposed new structure, all institutions and programs would submit biennial candidate outcomes data that would be very similar from institution to institution. It is anticipated that test scores, retention data, employer and candidate survey data would be common among all reports.

**System Should  
Include Annual  
Summary Data****The proposed system would report biennially as one measure of program and institutional quality.**

The accreditation review group agreed that all institutions and programs should be collecting and analyzing outcomes data annually and that analysis of that data should serve as the basis for program improvement.



**LAO Issue****CCTC Comments**

Interim reporting of that data was endorsed by the accreditation review group, however the group opted for biennial, rather than annual summary data by programs and institutions. In addition to the biennial reporting of the data, institutions would be required to submit information about how that data was used to make programmatic improvements.

**System Should Include Annual Summary Data (continued)**

The LAO proposal bases accreditation decisions solely on five specific data sources. The accreditation review group determined that, while the outcome measures currently available are informative and critical to the process, they are not sufficient by themselves to justify an accreditation decision. The group concluded that accreditation should be based on multiple measures, including a site visit, and adherence to all program standards.

**Use of State's Teacher Data System**

The proposed system allows for incorporation into a teacher data system.

A Teacher Data System is not currently operational. If the Teacher Data System is able to yield useful information on the quality of programs at an institution, it would be considered for use in the accreditation system.

**Make Results Easily Accessible**

The proposed system calls for clearer program findings in the accreditation report.

Accreditation reports are currently public documents. Findings on individual programs and the institution would be clearer under the review group's proposal. Candidate outcomes data included in biennial reports from institutions and each credential program will be public information as will accreditation site visit reports and accreditation decisions. Program findings will be more clearly included in the revised accreditation report allowing weaknesses in programs to be more explicitly identified, documented, and addressed.

**Annual Accreditation Decisions Would Be Based on Five Specific Measures**

LAO accreditation measures, while important, are insufficient to make accreditation decisions.

The performance based system the LAO advocates includes five specific measures. The review group's proposal includes 2 of the LAO measures, retention rates and employer satisfaction, among the types of data that will be collected biennially. However, the accreditation review group believes that multiple measures, including a site visit, along with adherence to standards more accurately reflect the quality and effectiveness of a program.

Discussions by the accreditation review group concluded that an accreditation decision based on a small number of quantitative measures

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alone, such as the LAO proposal, would be insufficient to reach any defensible conclusions about the quality of an institution's programs.

**LAO Proposal  
Would Result in  
Net Savings to State**

**LAO proposal shifts costs from special funds to the state's General Fund**

The LAO proposal would shift the accreditation function from a fee based system (CCTC) to a General Fund (CDE/SBE) agency. Currently, the accreditation system is not a cost to the General Fund.

**LAO Issue**

**CCTC Comments**

**New System Likely  
to Reduce Local  
Costs**

**LAO proposal might save on local costs at the expense of quality assurance.**

The LAO's proposed 5 data sources reporting could result in a local IHE cost savings, however the discussions of the accreditation review group suggest that such a structure would be inadequate for determining the quality of an institution's preparation program.

**CDE Staff and SBE  
Would Make  
Accreditation  
Decisions**

**LAO proposal shifts accreditation decisions from professional educators to state bureaucrats**

The LAO proposal eliminates professional judgment, which is an essential feature in an accreditation process, and would remove the decision-making process from K-12 and higher education practitioners.

Currently, review teams are composed of K-12 and higher education practitioners. In addition, the Committee on Accreditation is composed of 6 K-12 educators and 6 educators from institutions of higher education. This vests the responsibility of making decisions about educator preparation programs with professional educators.





## Responses for Senate Rules Committee

Lillian Tynes Perry, M.A.T.

Educator &amp; Member California Commission on Teacher Credentialing

1. It's an honor to be serving as a Commissioner on the CCTC at this juncture in its history. As a commissioner, I will endeavor to insure the maintenance of high standards for teacher discipline, while using wisdom and balanced judgment when considering the final appeals from teachers and paraprofessionals in closed sessions. I am also quite interested in working on the updating of standards for the Designated Subjects Credentials. The federally mandated No Child Left Behind is research based, so I will be involved with insuring that teacher effectiveness is standards-appropriate according to current data.
2. It is very important for legislators to seriously consider their actions, primarily those that will impact the California teacher pool. The CCTC is committed to taking steps that will weather the predictable budget fluctuations, by monitoring the actions of our elected State officials. Monitoring the Certificates of Clearance that are issued to student teachers and interns, can also give the Commission an idea of the number of teacher applications to expect within the long term, which in turn will help with estimating future revenue for the workforce.
3. The four purposes of the CCTC accreditation system are: accountability, adherence to state adopted standards, ensuring high quality programs, and the regular and routine review of data which fosters on-going programmatic decision making. In order to fully support these purposes, staffing issues at the CCTC must seriously be addressed. In the meantime, these purposes are being supported satisfactorily by the proper systems. To further ensure the alignment of the newly revised credentialing system with the four purposes, a valuable evaluation component is included. The workgroup and the Committee on Accreditation agreed upon these purposes prior to the development of the revised system, and by appointment.
4. The Committee On Accreditation, and the Commission both agree that much can be improved in the areas of communications and oversight in the accreditation system. Therefore in the spring of this year, the Commission will be considering a plan to increase regular and ongoing communication in the areas of decision-making, accreditation trends, and issues. While the Ed Code limits the Commission's role in accreditation, this new communication plan will prepare the Commission with a better sense of the strengths or weaknesses of the revised systems. when policy or implementation need to be adjusted.
5. It is my opinion that the incorporation of outcomes data, the requirement of on-going data collection analysis and programmatic changes as a result of the findings of such data, are important recommendations made by the LAO.
6. The suspension of the CCTC accreditation process has had little impact on teacher quality, if any. No accreditation reviews for institutions (seeking national accreditation) ceased, and the suspension was of a limited duration. The Commission is moving the newly revised system toward implementation, aggressively and strategically. A pilot testing of the newest component (the biennial report) will begin this spring, and will focus on candidate outcomes data.

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The Commission's website has the schedule for all site visits and accreditation activities through 2013.

7. The utilization of technology is streamlining the credentialing process for teacher candidates in California. All teachers must renew online. Colleges and universities are required to recommend their credential candidates online. Credential recommendations by induction programs will be online. Student teachers can apply for Certificates of Clearance online, and by July of this year, 30-Day Substitute Permits will be available for public school districts and county offices of education to process online.
8. With this new online technology, redundancies in the credentialing process are being eliminated. County offices of education will eventually have no need to issue Temporary County Certificates, due to the quicker processing time for the 30-Day Substitutes Permits that they will soon be able to apply for - online.
9. To suggest that the Commission's governance structure is responsible, in and of itself, for improving teacher quality in California is to place teacher quality in a very small box. As an authentic classroom teacher, excessive bureaucracy is anything that exists outside my classroom door. Certainly, teachers should be knowledgeable about the subjects they're teaching, so we should require incoming high school teachers to have academic majors in their subjects. Care should be taken in the processing of credentials for mid-career job changers, while remaining mindful of potential teacher shortages. Interns need support and all teachers need more clinical experience with specific cultures before we send them into the classroom. The governance structure of the CCTC is responsive to the public and is broadly representative, which actually ensures that teacher quality will take on a higher profile in policy discussions related to teacher preparation, while it maintains oversight of teacher education programs, credentialing, mentoring and evaluation of candidates. We commit to having this continually and consistently based on and monitored by - sound research. The Ed Code has established accountability for the CCTC. This year there is a renewed vision and coherence among the newly regenerated panel of commissioners in reaching CCTC goals, upholding it's purposes, and enforcing it's policies through "a governing partnership between the public and the profession that is not vulnerable to constantly changing politics and priorities."
10. With the utilization of the new technology and through the ongoing review of the strategic plan, I will have the opportunity as a member of the Commission to be directly involved with achieving the goals and objectives that will keep the core functions of the CCTC streamlined. I am optimistic that this can only enhance teacher preparation and quality in the State of California, as we pursue ongoing compliance with the federally mandated law - NCLB. As a parent of four public school students, a teacher in the public schools, and a product of the public schools, I can't help but feel extremely optimistic.

Respectfully submitted by  
**Commissioner Lillian Tynes Perry**  
CCTC  
February 2007



February 20, 2007

Submitted By: Loretta Whitson, Commissioner  
California Commission on Teacher Credentialing

The California Commission on Teacher Credentialing (CTC) is responsible for maintaining teacher quality by accrediting teacher preparation programs, credentialing teachers, and monitoring teacher conduct.

1. **Please provide a brief statement of goals. Please be specific about what you hope to accomplish while serving as a member of the California Commission on Teacher Credentialing. What are your specific areas of interest?** I am interested in ensuring that a strategic plan is established that would include input from all stakeholders. I am also interested in ensuring that the non-teacher credentials are considered adequately. For example the opening statement aforementioned indicates an emphasis in "teacher" when the CTC is responsible for ensuring high quality preparation programs for Administrative Service Credentials and non-administrative service credentials as well. I am also interested in the recruitment of our educational workforce, and I would like to see more effort made to recruit educational professionals from other states.
2. **What steps can CTC take to better anticipate and plan for the budget fluctuations that typically occur because of changes to the teacher workforce?** CTC should maintain a minimum reserve to compensate for any shortfall. The statutory limit of 10% is unreasonable given the fluctuation of the credential renewal process. Also, CTC should develop a system to monitor the anticipated number of new and renewable credentials up to several years in advance in order to balance their budgets accordingly.
3. **What is the purpose of the CTC accreditation system?** There are four purposes for the accreditation system. The Commission adopted these purposes at their July 2005 meeting and they are currently being incorporated into the new Accreditation Framework which will come before the Commission for approval in the spring. I served for over five years on the CTC Board of Institute Examiners, prior to my appointment to the Commission. Most importantly, the accreditation system needs to ensure that colleges and universities are maintaining high quality programs. **Are the proper systems in place to get to this purpose?** CTC is certainly on the road to great advancements in this area. In fact they have made great strides in the past 12 months to improve the overall functioning of the entire operation. The revised system, which is up for review at a CTC Commission Hearing in the next few months, also has an evaluation component to ensure better alignment with the agreed upon purpose. This area needed an overhaul and I believe Commission members will make sure that the quality of the accreditation system is approved at the high standard that Californians expect. The Commission will consider ways to increase communication with the Committee on Accreditation, which will give Commissioners a much better sense of the strengths and weaknesses of the revised accreditation system.

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4. **Should CTC increase accountability of its accreditation system? If so how?** I definitely see a need for change in the accreditation system. Basically, there needs to be better communication and overseeing of the accreditation function. In the next few months the Commission will hear recommendations to improve the accreditation system. The Commissioners have expressed interest in ensuring that the system is practical and holds institutes of higher education to a high standard of accountability and that the accreditation system is an ongoing assessment that is useful in creating effective credentialing programs.
5. **What are the most important recommendations CTC has recently adopted from the Accreditation Study Work Group to improve the accreditation system? Do these proposals address the shortcomings identified by the Legislative Analyst's office earlier this year?** I am new to the Commission as of September 2006 and upon beginning this position, I had some deep concerns regarding the report from the Legislative Analyst office. Likewise, I had heard criticism from several individuals in the field regarding CTC's accreditation system. I believe this report served as a catalyst for improvement within CTC. I am aware that CTC did extensive research to further identify their shortcomings in the accreditation process and have developed a plan to remedy a number of these issues. For quite sometime now, the field has been left in limbo and wanting to know clearly the expectations for their institutions, as well as the timeframe that their institutional review will take place. This particular problem has been resolved for the most part and I'm sensing that the field is at ease with the transitions that are taking place. As Commissioners we have been informed every step of the way by CTC staff of the recommended changes. I anticipate at either the March or April Commission Hearing that we will receive detailed information about the revised credential programs, I also anticipate that the accreditation process will now be a part of a comprehensive evaluation and support system rather than a piecemeal approach. I am also hopeful that the revised system has more flexibility for more timely responses, interventions and corrections.
6. **What has been the impact of suspending CTC's accreditation process on teacher quality? When will CTC's accreditation process be fully operational? Is there currently a backlog of programs requiring review?** I have not researched this topic and am unsure if the Commission has endeavored to discover the answer to this question. I am only judging from a few illustrations based on personal contacts. As Commissioners we have been kept up-to-date regarding the goal to revamp the accreditation system. I know that at this point, all institutions have been informed of the sequence of how the review process would impact their institution. From personal conversations, I am aware of the sentiments regarding the accreditation changes and have had conversations with several individuals who oversee their university's credentialing programs. To their credit, they have maintained the same high standards of accountability, in spite of the absence of the official CTC accreditation process. I also believe that the national accreditation processes have continued over the past few years. In fact, these institutions had no idea when they were going to be reviewed next, so the potential of a review perhaps kept them in tip-top condition.

7. **What changes has CTC implemented to streamline the credentialing process and simplify the steps a teacher candidate must take to become fully credentialed?** CTC has gone to an online credential renewal process. From personal experience I can attest that the system works very well. I received my renewal within days after I completed my application. I think that the Career Technical Education's (CTE) new credential process is a remaining problem with a huge backlog taking as much as seven or eight months to authorize. The CTE credentials are being revamped, which I think will alleviate the problem. I think the CTC staff has done an excellent job of streamlining the system.
8. **What is CTC doing to eliminate redundancies in the credentialing process, such as requiring application materials to be revised by CTC, university teacher preparation programs and county offices of education?** Technology advances have contributed to redundancy being eliminated. The quick on-line processing of credentials is key to this advancement.
9. **Should changes be made to the CTC governance structure to improve teacher quality in California?** I don't think so. I think that an increase in staffing is needed to deal with the backlog of credentials that are waiting to be processed, in particular the CTE credential which I addressed in question number 7.
10. **Do you have any recommendations for restructuring or streamlining any of CTC's core functions?** CTC needs to continue to consider better ways to use technology in all areas of their operation. They need to make sure that the website is user-friendly. I would like to see them also look into recruitment issues and perhaps devote web space for those individuals who are relocating from other states and are interested in applying for a California credential. With the potential shortages of teachers, administrators and other service credential holders (school counselors, school psychologist, school social workers, librarians, nurses and speech and language) it is paramount that the CTC look for ways to increase their recruitment efforts in order to ensure that California has a highly functioning educational workforce.







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